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International Year of Sanitation, 2008

Report of the Secretary-General

Summary

Despite significant efforts by Governments, organizations and other stakeholders, progress has been somewhat slow and uneven towards reaching the Millennium Development Goal target of halving, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation: 41 per cent of the global population — some 2.5 billion people — still lack access to basic sanitation facilities.

In its resolution 61/192, entitled "International Year of Sanitation, 2008", the General Assembly encouraged all States, the United Nations system and all other relevant stakeholders to increase awareness of the importance of sanitation and to promote action at all levels. Not only did the Year provide an opportunity to put the issue of sanitation in the spotlight, it galvanized the efforts and thinking of the international community to work more effectively and coherently. Advocacy efforts during the Year attracted widespread interest and inspired wide-ranging actions and partnerships.

This momentum is expected to continue well beyond the Year with the key message that sanitation matters and is an important development issue. However, future efforts will need to approach the sanitation issue in a much broader context and encompass all its aspects, including provision of basic sanitation services, sewerage, and wastewater treatment and reuse.

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I. Introduction

1. In its resolution 61/192, entitled "International Year of Sanitation, 2008", the General Assembly, expressing concern at the slow and insufficient progress in providing access to basic sanitation services, declared 2008 the International Year of Sanitation; called upon States, organizations at all levels and other relevant stakeholders, including the private sector and civil society, to make voluntary contributions; encouraged all States, the United Nations system and all other relevant stakeholders to take advantage of the Year to increase awareness of the importance of sanitation and to promote action at all levels; and requested the Secretary-General to submit to the Assembly at its sixty-fourth session a report on the implementation of the resolution.

2. The present report has been prepared in response to that request by the General Assembly and benefited in particular from the technical input and contributions provided by Governments, organizations of the United Nations system, non-governmental organizations and other relevant stakeholders.

II. Overview

3. According to the latest available data consolidated by the World Health Organization (WHO)/United Nations Children's Fund (UNICEF) Joint Monitoring Programme for Water Supply and Sanitation, only 62 per cent of the world's population has access to improved sanitation, that is, sanitation facilities ensuring hygienic separation of human excreta from human contact. That translates into a staggering 2.5 billion people living in unacceptable conditions. Exposure to human excreta causes a myriad of health problems, the most common one being diarrhoea. The unavailability of a safe and clean place to defecate erodes human dignity and exposes women and girls to conditions that are both unsafe and humiliating. Access to improved sanitation is often cited as the most important development intervention in the history of developed countries, as sanitation coverage allowed for significant medical, social and economic advances.

4. The world is not on track to meet the Millennium Development Goal target on sanitation, i.e. to halve, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation. In fact, based on current projections, the total population without improved sanitation in 2015 (2.4 billion) will only be slightly lower than in 1990. This means the target will have been missed for over 700 million people.

5. The importance of sanitation has been highlighted in several national and international conferences and meetings. In the Plan of Implementation of the World Summit on Sustainable Development ("Johannesburg Plan of Implementation"),[1] Governments agreed to set a target of halving, by 2015, the proportion of the population without basic sanitation. At its twelfth session, in 2004, the Commission on Sustainable Development reviewed the state of implementation of sanitation-related activities and concluded that, despite significant efforts by Governments,

[1] *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 1, annex.

organizations and other stakeholders, progress towards the target had been somewhat slow and uneven: 41 per cent of the global population still lacked access to basic sanitation facilities and sanitation remained an institutional orphan. The Commission accordingly emphasized the need to address a number of challenges and obstacles impeding greater progress. Following that review, the Commission agreed, at its thirteenth session, on a number of policy actions and measures to accelerate the implementation of sanitation-related activities.

III. International initiatives

6. To coordinate activities during the Year, the Department of Economic and Social Affairs of the Secretariat was designated as the lead institution, to work closely with the UN-Water Task Force on Sanitation coordinated by UNICEF, the Advisory Board on Water and Sanitation, non-governmental organizations, the private sector and academia.

7. On 7 May 2007, a coordination meeting was convened by the Department of Economic and Social Affairs, UNICEF and the Advisory Board on Water and Sanitation at United Nations Headquarters with the participation of stakeholders including organizations of the United Nations system, development banks, non-governmental organizations, Governments and civil society to develop a road map and objectives and to identify each group's role in responding to the global sanitation crisis. The agreed objectives were to raise awareness and expedite implementation of activities in the sanitation sector in order to reach the target set for 2015. This was operationalized in an action plan consisting of eight objectives for the Year. The action plan included activities in the areas of awareness-raising, preparation of new and updated publications, advocacy, monitoring, expedited implementation, capacity-building and cost evaluation. It also emphasized a multilevel and multi-stakeholder approach to finding sustainable and comprehensive solutions to sanitation problems.

8. On 21 November 2007, the official global launch of the Year — organized by the Department of Economic and Social Affairs in collaboration with the UN-Water Task Force on Sanitation — took place at United Nations Headquarters. At the launch, the logo was unveiled and a hand-washing ceremony was held.

9. The Year was the central focus of the UN-Water Task Force on Sanitation; and activities were supported by various donors, including the Department for International Development of the United Kingdom of Great Britain and Northern Ireland and the Bill and Melinda Gates Foundation. An advocacy and communication, strategy was produced prior to the launch of the Year to guide support and coordinate communications activities and initiatives in both developed and developing countries. The strategy's key messages included: sanitation is vital for human health, sanitation contributes to dignity and social development, sanitation generates economic benefit, sanitation helps the environment and sanitation is achievable.

10. Awareness-raising campaigns and educational initiatives represent the majority of projects initiated and conducted during the Year. The Year's home page, hosted and administered by the Department of Economic and Social Affairs, included several tools for advocacy, information on sanitation issues and news on ongoing and initiated projects. A "sanitation library" features articles, reports, CD-ROM and

other advocacy material. The home page constitutes an important focal point for sanitation activism and for organizations of the United Nations system active in this area.

11. The UN-Water Task Force on Sanitation with support from the Bill and Melinda Gates Foundation, developed information packages for politicians and the media and for general advocacy purposes. At the initiative of the Water Supply and Sanitation Collaborative Council (WSSCC), the information was made available in three languages; it included a booklet, fact sheets, a matrix, links to useful websites, talking points and posters, and was distributed worldwide by partner organizations. The United Nations Human Settlements Programme (UN-Habitat) and UNICEF produced a flagship publication, entitled "Tackling a global crisis", to enhance understanding of the Year's message and buy-in to the cause of improving sanitation globally. Over 20,000 copies have been printed and distributed. In addition, many copies were printed in advance of the official publication to meet demand at events held early in the Year. Preliminary feedback suggests that the publication was also downloaded from the Internet and reprinted for dissemination at global events.

12. In cooperation with the Year, the German Toilet Organization launched a worldwide awareness-raising and advocacy campaign on sanitation. With support from UN-Water, a travelling exhibition called "Sanitation is dignity" visited public venues around the globe. The exhibition consists of exhibition figures, information elements and a supporter point to break the "toilet taboo" and create a platform for open discussion on sanitation.

13. The UN-Water Task Force on Sanitation has prepared an online scrapbook to celebrate the achievements made during the Year. With its focus on country-level achievements in the sanitation sector, this resource will allow ongoing dialogue and continued action for improved sanitation. The virtual scrapbook, which is hosted by the Department of Economic and Social Affairs, went live in June 2009 (www.sanitationyear2008.org).

14. During the sixteenth session of the Commission on Sustainable Development, the UN-Water Task Force on Gender and Water held a panel discussion on challenges and opportunities in gender-sensitive national sanitation policies. The panel discussion drew special attention to the importance of meeting sanitation challenges effectively by adopting and implementing gender-sensitive national sanitation policies and it called for expanding access to sanitation to at least 120 million women worldwide during the Year.

15. Also at that session, WaterAid, UN-Habitat and the Swiss Agency for Development and Cooperation held a side event to discuss their paper "Sanitation: a human rights imperative", which explained the benefits of using rights-based principles in addressing the sanitation crisis and outlined priorities for Governments, international organizations and civil society.

16. In recognition of the Year and to highlight the importance of sanitation to human development, the United Nations University's International Network on Water, Environment and Health held a workshop in Hamilton, Canada, on 20 and 21 October 2008. The event included keynote addresses by several prominent experts in the field and featured the German Toilet Organization exhibition "Sanitation is dignity".

17. On 2 and 3 December 2008, the Department of Economic and Social Affairs (Task Force on Gender and Water) and the UN-Water Decade Programme on Capacity Development held an expert group meeting on gender-disaggregated data on water and sanitation to take stock of the state of such data at the global and regional levels and to identify obstacles in the area of gender-disaggregated data collection and capacity. Recommendations were made on policies, practices and priorities to improve the state of gender-disaggregated data. The expert group meeting also developed a set of gendered indicators on water and sanitation. These indicators could be adopted by global-level data-collection entities, such as the WHO/UNICEF Joint Monitoring Programme, to enhance gender-sensitive policy formulation, institutional capacity-building and the measurement and monitoring of the impact of water and sanitation projects and programmes on women and girls.

18. With financial support from the Swedish International Development Agency, the United Nations Development Programme launched a programme entitled "GoAL-WaSH" (which stands for governance, advocacy and leadership for water, sanitation and hygiene). This strategic programme aims at helping States lagging in the attainment of Millennium Development Goal targets on water and sanitation to identify key gaps and weaknesses in their water and sanitation governance structures and to design targeted interventions to fill a gap, and build capacity for more effective water and sanitation governance systems. To date, GoAL-WaSH sector assessments have been carried out in six countries (Madagascar, Mali, Nepal, Paraguay, Sierra Leone and Zambia), and project proposals have been developed for two of those countries (Madagascar and Paraguay).

19. In Brazil, Iraq, and Jamaica, the International Environmental Technology Centre of the United Nations Environment Programme continued the implementation of a number of projects aimed at improving access to water supply and wastewater treatment.

20. On 14 March 2008, WSSCC formally launched the Global Sanitation Fund, which brought attention to the need for innovative financing mechanisms in the sector. The Fund aims at safe and sustainable sanitation for a large number of people and the adoption of good hygiene practices, especially among women, girls and the poor in rural and peri-urban areas. The Fund is the first global financing mechanism to focus expenditure on sanitation and hygiene. Both symbolically and in practice, the Fund represents one of the major initiatives of the Year.

21. The Public-Private Partnership for Handwashing organized the first ever Global Hand-washing Day in support of the Year. Over 85 countries participated in the event, which focused on raising awareness among schoolchildren of the importance of hand-washing with soap. Almost 200 million children took part in events around the world. That response exceeded expectations. In the coming years, the focus will be on behavioural change.

22. The International Water Association (IWA) also co-organized a hand-washing campaign in connection with the Year. The campaign was part of the World Water Monitoring Day initiative that IWA is implementing with the Water Environment Federation. In 2008, more than 75,000 people from over 70 countries participated in World Water Monitoring Day. The hand-washing campaign involved sending out hand-washing kits to organizations worldwide.

23. On 20 March 2008, hundreds of international and national initiatives commemorated World Water Day 2008, which had as its theme "Sanitation matters for all". The lead agencies for 2008 were WHO and UNICEF, which organized events and developed advocacy and media materials for the Day. For example, in New York and Geneva, a World Water Day event entitled "Stand up for those who can't sit down" was held. In the Dominican Republic, a day of awareness-raising was arranged with visits to water treatment plants, beach clean-up activities and a children's drawing contest. In Sierra Leone, a discussion forum with panellists was organized at which participants took part in discussions on different sanitation topics. In many countries, World Water Day was used to formally launch the Year, and events presided by ministers, prime ministers and presidents were held.

24. In recognition of the Year, the WHO/UNICEF Joint Monitoring Programme issued in July 2008 a data update focused on sanitation. The update included newly disaggregated sanitation data that provided valuable insights into how progress was being made. The Joint Monitoring Programme also issued several regional "snapshots" of water and sanitation data with a view to enabling advocacy and planning. Two of those documents were specifically on sanitation ("Sanitation in Africa" and "Sanitation in South Asia"). The Joint Monitoring Programme is the global mechanism for monitoring progress towards the Millennium Development Goal target on improved sanitation and drinking water (the drinking water target being to halve the number of people lacking improved drinking water sources). As such, the Joint Monitoring Programme is the international authority on sanitation coverage and thus it is critical that its indicators are robust and that it receives adequate institutional and financial support.

25. In recognition of the importance of sanitation for a cleaner and healthier environment, WHO, the Alliance for Healthy Cities and the World Toilet Organization presented awards in 2008 to two cities of the Republic of Korea that had won an international competition for the best sanitary facilities in a region.

26. In conjunction with the Year, UNICEF sought to consolidate and strengthen its approaches to sanitation and advocated internally for increased focus on and investment in sanitation. To that end, a meeting on community-based approaches to sanitation was held in July 2008, and consensus on key principles and strategies was achieved. UNICEF now has a vision document, entitled "Community approaches to total sanitation", and the momentum provided by the Year has seen a massive uptake and increased focus, with over 40 countries rapidly scaling up their programmes in 2008.

27. WaterAid collaborated with a broad range of partners to capitalize on the opportunity presented by the Year. Working at different levels, WaterAid participated in successful events and activities to counter the neglected situation of sanitation and reposition the sector as a critical developmental building block. At the international level, WaterAid focused on the Group of Eight summit held in 2008 in Japan, submitting a petition containing 1 million signatures to the Government of Japan and forming "toilet queues" outside Japanese embassies around the world. Regionally, WaterAid participated in the various sanitation conferences to build regional momentum for national-level progress on sanitation. WaterAid helped organize a civil society gathering at which a candle light vigil was held in memory of the 1 million children who had died from diarrhoea in South Asia in the past two years. At the national level, in the 17 countries where WaterAid

works, various campaigning activities were conducted under the banner of the "End water poverty" campaign (an international coalition of over 120 civil society organizations and networks).

28. German Technical Cooperation (GTZ) and the Stockholm Environment Institute formed, together with organizations active in the area of sanitation, an open network on sustainable sanitation to support the Year. The Sustainable Sanitation Alliance (SuSanA), whose secretariat is located in Germany, aims to contribute to the achievement of the Millennium Development Goals by promoting sanitation systems that take into consideration all aspects of sustainability, raise awareness of sustainable sanitation solutions and promote those solutions on a large scale. The Alliance also highlights the key role of sanitation in achieving an entire series of Millennium Development Goals by showing how sustainable sanitation systems should be planned with the participation of all stakeholders and should be pursued in tandem with hygiene promotion. The overall aim is to promote a paradigm shift to reuse-oriented sanitation approaches without compromising health. During the Year, over 100 organizations joined the Alliance.

29. The newsfeed Sanitation Updates was set up to promote the Year by disseminating news, information and resources. The service provides daily updates and is maintained by the International Rescue Committee's International Water and Sanitation Centre and the United States Agency for International Development's Environmental Health Knowledge Management Activity and Hygiene Improvement Project. The service will continue in support of the goal of achieving sanitation for all.

30. The World Toilet Association was established in November 2007 in Seoul, with the main objective of helping poor communities to gain sustained access to water supply and sanitation services. The Association initiated a public toilet-building pilot project that included the construction of toilets in public areas in nine countries in Africa and Asia. The selected sites represented areas where improved sanitation was desperately needed.

IV. Regional initiatives

31. The importance of securing political commitment to sanitation at all levels was widely recognized and five regional ministerial conferences on sanitation were organized in support of the Year. Those conferences sought to raise the awareness of ministers and senior Government officials of the need for urgent action on sanitation. Discussion forums were held and enjoyed a high level of participation by Governments, and agreements were reached on declarations signed by Governments calling for action and agreeing on their commitments to sanitation improvements in their respective countries.

32. In conjunction with the ministerial conferences, many technical workshops and side meetings were held by a number of organizations and groups, including the Sustainable Sanitation Alliance. The Institute of Development Studies of the United Kingdom organized meetings and workshops on community-led total sanitation and WSSCC organized various workshops for the media. In advance of the Third South Asia Conference on Sanitation, WaterAid organized, with some of its partners, a civil society pre-meeting, and it organized a panel discussion with UNICEF at the

2008 Labour Party conference in the United Kingdom, at which the Minister for Development was present.

33. The Latin American Conference on Sanitation (LatinoSan 2007) was held in Cali, Colombia from 12 to 16 November 2007, and was jointly organized by the Research and Development Institute in Water Supply, Environmental Sanitation and Water Resources Conservation (CINARA) and Del Valle University of Colombia, UNICEF, WHO, the Inter-American Development Bank and the Water and Sanitation Program of the World Bank. LatinoSan 2007 was the first Latin American conference devoted to this topic at the ministerial level, and was attended by participants from 22 countries; it represented one of the most relevant efforts in Latin America to mobilize human and financial resources to address the sanitation crisis in the region. The central objective was to raise the political profile of sanitation and hygiene at the national and regional levels. LatinoSan 2007 resulted in the adoption of the Cali Declaration, in which the signatory States agreed to prioritize sanitation in national development policies, support the achievement of the main objectives of the Year and strengthen intergovernmental cooperation in the region.

34. The Second African Conference on Sanitation and Hygiene (AfricaSan+5) was held in Durban, South Africa, from 18 to 21 February 2008, under the auspices of the African Ministers' Council on Water (AMCOW) and its partners the Department of Water Affairs and Forestry of South Africa, the African Development Bank, UNICEF, the Advisory Board on Water and Sanitation, the Water and Sanitation Program of the World Bank, WSSCC and WHO. Representatives of over 50 African States were in attendance. The main objective of the Conference was to move sanitation and hygiene to the top of the development agenda in Africa and to assess progress, challenges and lessons learned towards achieving the Millennium Development Goal target on sanitation. Participants agreed on an action plan that articulates critical actions to be further developed, funded and monitored by 2010 in order to put Africa back on track to meeting the sanitation target.

35. At the conclusion of the Conference, Ministers signed the eThekwini Declaration and pledged to create separate budget lines for sanitation and hygiene in their countries and to commit at least 0.5 per cent of gross domestic product to that sector. AMCOW was mandated to monitor progress against the national plans and report on such progress at the next conference, in 2010. The Conference also marked the formal launch of the Year in Africa. An exercise to monitor the status of assumed commitments was undertaken in October by AMCOW and it partners in East Africa and further meetings are planned for other subregions in Africa.

36. The Third South Asian Conference on Sanitation (SACOSAN III), organized by the Government of India, was held in New Delhi from 19 to 21 November 2008, with the theme "Sanitation for dignity and health". Eight South Asian States (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka) participated at the ministerial level. The Conference was opened by the Prime Minister of India, who stated that sanitation should be the birthright of every citizen of South Asia. At the Conference, discussions were held on four main issues: sanitation and sustainability; sanitation and development; sanitation beyond toilets; and institutions and partnerships for sanitation. The Conference concluded with the signing of the Delhi Declaration in which States confirmed their commitment to

achieving the Millennium Development Goal target on sanitation and recognized that access to sanitation was a human right.

37. The Caribbean Workshop on Sanitation (CARIBSAN 2008), jointly organized by the Department of Economic and Social Affairs and the Water and Sanitation Program of the World Bank was held in Kingston on 28 and 29 April 2008. The topic of the regional meeting was "Integration of sanitation policies in national development plans in the Caribbean region". Representatives of 11 States reached consensus on a set of recommendations for improving sanitation, in particular through the formulation and implementation of sanitation policies involving all stakeholders, and adopted the Kingston Declaration, in which they called for real commitments to develop national sanitation policies, ensuring increased financial support to facilitate sustained progress through national budget commitments and increasing the awareness and commitment of actors at all levels. A committee was established to follow up on the implementation of the recommendations.

38. The East Asia Ministerial Conference on Sanitation and Hygiene (EASAN 2007), organized jointly by the Water and Sanitation Program of the World Bank, WHO, the Economic and Social Commission for Asia and the Pacific (ESCAP) and UNICEF, was held in Beppu, Japan, on 30 November and 1 December 2007. The Conference brought together ministers of 15 States to discuss options for accelerating national action to achieve the Millennium Development Goal target on sanitation in East Asia. In the declaration adopted at the Conference, States pledged to boost investment in sanitation and hygiene and provide strong leadership for action. The case was made for sanitation as an economic investment and was backed by a call to strengthen the mechanism for monitoring investment and results in sanitation as an essential condition of achieving the Millennium Development Goal target on sanitation. The Conference outcomes were reported to the Asia-Pacific Water Summit held in Beppu, Japan, on 3 and 4 December 2007. The Summit brought together 10 Heads of State from over 35 countries in Asia and the Pacific as well as representatives of regional water and sanitation institutions.

39. A ministerial declaration on water supply and sanitation in small rural settlements in the Black Sea region was agreed in May 2009 during a regional ministerial conference held in Sofia. The declaration contains a set of recommendations for Governments to spur action in financing, innovative solutions, education and transboundary and regional cooperation for improved sanitation coverage and sustainable water supply.

40. At the African regional level, an African Union summit was held in Addis Ababa from 31 January to 2 February 2008. At the summit, Heads of State and Government adopted a decision on the Millennium Development Goals in which they specifically welcomed the initiative of the Secretary-General and other partners to hold meetings on the Millennium Development Goals in September 2008 to find ways to reinforce the partnership between developed and developing countries. In anticipation of those meetings, they agreed to make water and sanitation the theme of the African Union summit to be held in July 2008. Participants also recognized that in addition to marking the midpoint between the adoption of the Millennium Declaration in 2000 and the 2015 target date, the year 2008 was crucial for converting previous declarations and commitments into new, seven-year national and regional action plans and implementation strategies.

41. The eleventh ordinary session of the Assembly of the Heads of State and Government of the African Union was held in Sharm el-Sheikh, Egypt, on 30 June and 1 July 2008, with the theme "Meeting the Millennium Development Goals on water and sanitation". The summit generated significant commitments with regard to water and sanitation in Africa. In the declaration entitled "Sharm el-Sheikh Commitments for Accelerating the Achievement of Water and Sanitation Goals in Africa", African leaders committed to increasing their efforts in the area of water and sanitation and raising the profile of sanitation by addressing the gaps in the context of the eThekwini Declaration. In particular, they agreed to develop and update national policies, regulatory frameworks and programmes and to prepare national strategies and action plans for achieving the Millennium Development Goals targets on water and sanitation over the next seven years.

42. As part of the follow-up to the implementation of the outcomes of the Sharm el-Sheikh summit, the Sub-regional Office for Southern Africa of the Economic Commission for Africa (ECA) organized, in partnership with the African Union Office for Southern Africa, the Secretariat of the Southern Africa Development Community (SADC) and the African Development Bank, a training seminar on water and sanitation in the Southern African Development Community: innovative approaches for resource mobilization and policy implementation. The seminar, held in Lusaka from 10 to 13 December 2008, provided the participants from 15 States with a better understanding of the challenges ahead and the roles they were expected to play. Because of the significant lag in most African countries with regard to meeting the Millennium Development Goal targets on water and sanitation, ECA has designed a mechanism to enhance collaboration between the organizations of the United Nations system working in this sphere in Africa and national actors in the assessment of community and national needs (including costing and resource mobilization from internal and external sources) for follow-up on meeting the Millennium Development Goal targets on water and sanitation.

43. The Economic Commission for Latin America and the Caribbean organized various events in support of the Year, including a seminar on international investment agreements, sustainability of investments in infrastructure and regulatory and contractual measures, which was held in Lima from 14 to 16 January 2009. The objective of the seminar was to exchange experiences with regard to the impact of international investment agreements and their implications for the formulation of public policy for, inter alia, private investment in the provision of sanitation services.

44. In support of the Year, ESCAP conducted a survey of member States on good practices and lessons learned in the area of member sanitation improvements. The survey findings were presented and discussed at a regional workshop on institutional changes required to meet the Millennium Development Goal target on sanitation, organized by ESCAP and held in Macao, China, in November 2008, back to back with the World Toilet Summit and Expo. States from the region reached a consensus on key institutional changes needed to meet the Millennium Development Goal target on sanitation, including decentralization of sanitation funds and empowerment of local communities and civil society. Adequate support for the extreme poor was also identified as a key requirement.

45. Within the framework of the mutual efforts of the Economic and Social Commission for Western Asia (ESCWA) and the League of Arab States, to follow up

on the agreed goals for sustainable development, ESCWA issued a regional assessment report entitled "Sustainable water supply and sanitation for all: regional assessment report on the status and achievements of ESCWA member countries towards improved water supply and sanitation. At a high-level meeting held in Cairo in July 2008, to follow up on the findings of the report, senior Government officials responsible for water and sanitation endorsed the report with their full support.

46. WHO organized a regional worksnop on ecological sanitation, held in Kathmandu from 22 to 25 September 2008. Representatives of Bhutan, Indonesia, Maldives, Myanmar, Nepal, Sri Lanka, Thailand and Timor-Leste gathered to review the state of sanitation in South-East Asia and shared experiences about the approaches and challenges they faced in promoting the sanitation programme.

V. National initiatives

47. At the national level, the Year provided an opportunity to put the issue of sanitation in the spotlight and generated considerable awareness. Worldwide many advocacy and awareness-raising events were held at the national, provincial, village, school and community levels. Those activities involved children, communities, traditional and religious leaders, Government officials, non-governmental organizations, politicians, celebrities, sports figures and members of royalty. The immensely varied and innovative activities undertaken all sought to raise awareness of the urgent need for sanitation improvements and to lift the taboo surrounding sanitation.

48. Many countries organized sanitation days, weeks or months. In the Gambia and Timor-Leste, the events were launched by the Vice-President. Afghanistan, Burundi, Eritrea, Mauritania, Pakistan and the Philippines organized awareness-raising weeks. In Nepal, one such event resulted in the commitment of 601 parliamentarians to include sanitation as a basic human right in the Constitution.

49. Media workshops and briefings were held in over 40 countries, with the media kits designed for the Year being used to train and orient journalists and other media experts in sanitation. All States reported enhanced media coverage of sanitation and the objectives of the Year.

50. An array of training events and workshops on sanitation advocacy and awareness-raising were held in over 60 countries for Government officials, political leaders, non-governmental organizations and traditional leaders. These included meetings held in Colombia for municipalities and provincial training events in Bhutan, Burundi, Ethiopia and Indonesia. In addition, many States reported having organized various technical training activities on sanitation.

51. One major outcome of the Year was the number of partnerships and coalitions for sanitation forged at the country level. These included partnerships between Governments, international organizations, non-governmental organizations, organizations of the United Nations system, the private sector and the media. Cambodia, Democratic Republic of the Congo, Djibouti, Eritrea, Guatemala, Pakistan, Sierra Leone, Sri Lanka, Suriname and Viet Nam all reported on such enhanced partnerships for sanitation. Many States, including Bolivia (Plurinational State of), Mauritania and the United Republic of Tanzania, also reported on inter-ministerial coordination for sanitation.

52. In several States, sanitation was included for the first time in national policies and strategies, and strategic plans for sanitation were also developed. There was a notable increase during the year on policy-level work in the area of sanitation in many States, including Afghanistan, Angola, Burundi, China, Côte d'Ivoire, the Czech Republic, Djibouti, Eritrea, the Gambia, Guyana, Indonesia, Madagascar, Malawi, Nepal, Pakistan, Sri Lanka and the United Republic of Tanzania. This is one of the measurable outcomes of the regional ministerial declarations; early information from monitoring mechanisms in some regions indicates good progress in this area.

53. Investment by Governments and donors in sanitation also increased during 2008. In Afghanistan, the Government allocated for the first time funds for hygiene and sanitation. Sanitation budget increases were reported by China, Djibouti, Iraq and Nepal. Nigeria, Pakistan, Timor-Leste and Viet Nam reported on increased resources available through UNICEF for sanitation. The Australian Agency for International Development (AusAID) and the Government of Japan increased their allocations to the sector. The Gambia has developed a budget tracking system for the sanitation sector to be implemented in 2009.

54. Some specific examples of national-level activities and outcomes related to the Year are described in the following paragraphs. These include actions and commitments undertaken by Governments, organizations of the United Nations system, international organizations, national and international non-governmental organizations, community-based organizations and individuals.

55. In Afghanistan, a concept of "clean villages" was developed and subsequently introduced in all 34 provinces. A women's toilet elements production and training centre was opened at which female masons produced over 60 latrine slabs under the guidance of a trainer. The project is also aimed at income diversification and improved marketing.

56. In Angola, the Ministry of the Environment established a new national technical unit for environmental sanitation, and a memorandum of understanding was signed between UNICEF and the Ministry of Urban Development and Planning for the provision of technical assistance to the unit for implementation of the recommendations of the national workshop on sanitation.

57. The Government of Australia pledged to increase by five times overseas aid to the Water, Sanitation and Hygiene for All (WASH) campaign of WSSCC, doubling the proportion spent on sanitation. A major regional conference on sanitation and water was held in October in Melbourne. A WASH policy has been formulated that places greater emphasis on sanitation. The Parliament Secretary, the WASH reference group, academics and AusAID played a key role throughout the Year.

58. In Bangladesh, the Government, development partners, non-governmental organizations and the private sector joined together in a common platform and agreed to work together to reach the Millennium Development Goals. The Department of Public Health Engineering, with the support of UNICEF and the Department for International Development of the United Kingdom, implemented sanitation, hygiene education and water supply projects in 19 districts. Environment and social development officers received briefings and training on the Year, in particular on five messages and on gender, poverty and social issues.

59. As an outcome of the Year, Benin officially declared 15 April as National Health and Hygiene Day.

60. In Burkina Faso, the Year enabled women's groups, people affected by AIDS and youth to take part in the sanitation discussion. The Minister of the Environment declared 22 November as Clean City Day. The Minister of Agriculture, Water and Fishery Resources announced significant allocations for sanitation and hygiene, particularly in rural areas which previously had received no specific allocations from the budget. An amount equivalent to US$ 1.3 million was included in the 2008 budget for institutional sanitation facilities and hygiene promotion in rural areas, and the allocation for sanitation in urban areas was increased by 40 per cent, to US$ 1 million equivalent.

61. In Cambodia, children were given special attention in hygiene and sanitation education activities throughout the Year. Sanitation issues were promoted during the National Water Festival in November 2008. In addition, the National Sanitation Forum was launched in conjunction with provincial sanitation campaigns.

62. In China, a national strategic sanitation forum was held and the Minister of Health proposed the integration of rural sanitation into the new socialist countryside (NSC) policy. The Government has started to build a rural sanitation monitoring and evaluation system and has increased budgetary funding for rural sanitation.

63. A forum on "eco-toilets" was held in Chengdu, China, in late 2008 and resulted in a joint statement on promised action to improve sanitation in China. The event was attended by 78 non-governmental organizations, 8 foundations and 15 universities, and comprised three components: a pilot project ("Water drop village"), an international forum and a joint stakeholder announcement on eco-toilet action. The pilot project aimed to construct 108 eco-toilets and was expected to be completed by January 2009.

64. The Czech Republic concentrated its efforts on better control of wastewater discharges, upgrading of infrastructure and building of new facilities. One priority was to reduce pollution discharges through the construction, modernization and intensification of wastewater treatment plants, associated with the construction of sewerage systems. World Water Day 2008 was observed in Prague with broad-based participation by water authorities and various stakeholders. In addition, regional water days were organized around the country.

65. In Egypt, a comprehensive sanitation project covering three major districts is being implemented by the Ministry of Housing, the Ministry of Irrigation, the World Bank and Dutch Development Aid. The project aims at evaluating comprehensive watershed management, including water for drinking, irrigation, agriculture and sanitation. The Government anticipates that by the end of the current five-year development plan, the national sanitation system capacity will have increased by 80 per cent.

66. In Eritrea, a sanitation week was organized with the theme "To sustain the development of our nation, let's invest in sanitation" and included official launching ceremonies in six regions of the country, advocacy seminars, the declaration of the first open-defecation-free village, an online panel discussion on sanitation and hygiene, a demonstration and awareness campaign of Global Hand-washing Day in schools, sports activities, pilot projects and much more. National promotional

materials were developed and sanitation was recognized as a key priority in the health sector.

67. In Ethiopia, a national sanitation and hygiene festival was held in December, in cooperation with the WASH campaign of WSSCC, to celebrate the achievements of the Year. The festival was attended by 300 participants representing the Government, civil society organizations, the private sector, the media, professional associations, higher education institutions and schools. To commemorate Global Hand-washing Day at the national level, more than 100,000 bars of soap and eight water tankers were donated by private soap and plastic manufacturers. The Ministry of Health has included the promotion of sanitation and hygiene in its core plan for the current fiscal year, requiring every district to develop its own action plan. To add political impetus, a national workshop (EthioSan 2008) was held.

68. Fiji organized a side event during the Pacific Water Conference held in Apia, Samoa, from 9 to 11 September 2008, to review the Pacific Wastewater Policy Statement and Framework for Action (2001). This ensured regional attendance for the review process.

69. In Germany, the Ministry for Economic Cooperation and Development issued a publication on sanitation and organized a meeting of non-governmental organizations on the issue of sanitation. The Vice-Chairperson of the Advisory Board on Water and Sanitation and the United Nations Association of Germany launched a German-language website on the Year (http://www.dgvn.de/sanitaerjahr2008.html).

70. As a follow-up to CARIBSAN 2008, Jamaica established a programme based on the recommendations of the Conference and focused on finalizing of the sanitation policy and establishing a national sanitation task force to guide the integration of the plan for improved sanitation into the implementation of the Vision Jamaica 2030 national development plan. The task force will strengthen the focus on sanitation and hygiene through an expanded rural water programme within the housing policy that is being developed.

71. In Japan, the Year was promoted actively through various events prior to and throughout the year, including the fourth Tokyo International Conference on African Development, held in Yokohama, Japan, from 28 to 30 May 2008. At the Conference, the Government announced its intention to provide grant aid totalling JPY 30 billion for technological cooperation, with the view to providing 6.5 million people with safe drinking water and assisting with human resources development. Financial support in the amount of US$ 11.4 million was provided for water, sanitation and hygiene emergencies in the Democratic Republic of the Congo, Gaza, Kenya, Myanmar, Yemen and Zimbabwe.

72. The Government of Japan also supported projects of local non-governmental organizations to improve sanitation, in particular in Bangladesh, Nepal, the Philippines, Sri Lanka, Uganda and the United Republic of Tanzania, and implemented grass-roots projects to improve sanitation in schools.

73. In addition, the Ministry of Land, Infrastructure, Transport and Tourism in Japan, together with relevant organizations, established the Committee for International Cooperation in the Sewerage Sector. Participants in the Committee discussed strategies to strengthen international cooperation in coordination with the private sector, academia and Governments and adopted an action plan for the creation of a global centre for urban sanitation.

74. In March 2008, the Japan Toilet Association held an international workshop on programmes to support school sanitation facilities to protect children's health. In April 2008, the Japan Committee for UNICEF held a corporate social responsibility seminar on saving children's lives through a sanitary environment. In partnership with the Committee, Oji Nepia Co. Ltd. launched the 1,000 Toilets Project, which will build 1,000 latrines for children in Timor-Leste through UNICEF.

75. In Kenya, the Government created a separate ministry and department specifically for public health and sanitation, which had previously been under the Health Ministry. The combined allocation for health, including the ministries of Medical Services and of Public Health and Sanitation, was increased from US$ 514 million equivalent to US$ 537 million equivalent for the current fiscal year.

76. In Mauritania, in preparation for World Water Day, 50 representatives from Nissa Bank — a microcredit union supported by UNICEF with 117,600 women members — held a two-day meeting to discuss sanitation issues.

77. The Government of Mozambique launched in 2008 the National Sanitation Campaign, which focused on promoting four key behaviours: hand-washing with soap, construction and use of latrines, safe water use and disposal of solid waste. To reinforce the Campaign, the community approach to total sanitation was introduced in the 18 districts covered by the One Million Initiative in the Provinces of Manica, Tete and Sofala. The approach included the introduction of sanitation awards and the application of the community-led total sanitation approach. Although only 6,000 latrines had been constructed by June 2008, that figure had risen to over 25,000 by December 2008, thanks to the introduction of the award scheme. In 2008, 143 villages in the three provinces applied for the sanitation award.

78. The Myanmar Motion Picture Organization produced 12 television spots promoting four clean habits (improved sanitation, safe drinking water, clean foods and hand-washing with soap) and 14 short films promoting improved sanitation and good hygiene behaviour. A public-private partnership for the WASH campaign was also established.

79. In Nepal, a dedicated desk was created in order to bring together stakeholders for collective action. A multi-stakeholder process enabled the formulation of a sanitation master plan that describes the country's vision on how to approach and finance sanitation. Several events were organized, such as the first Global Hand-washing Day, Ninth Sanitation Week, a website launch and a number of school sanitation initiatives. A major accomplishment enabled by the efforts relating to the Year was the first-ever allocation of separate funds in the national budget to support sanitation.

80. In Nicaragua, various events were organized including an Earth fair, an international sanitation week, two regional forums, a national press competition with the theme "Sanitation, a priority for Nicaragua" and a radio and television festival on sanitation.

81. In Nigeria, the official launch of the Year was made in conjunction with a meeting of the National Council on Water Resources. Ministers, organizations of the United Nations system, non-governmental organizations and other stakeholders participated in the event, which attracted over 200 people. The year 2009 was declared as the National Year of Sanitation.

82. In Pakistan, the Year was launched at both the national and provincial levels. During the year, a week was devoted to child health and sanitation, at which over 11 million people were reached in six districts. In 10 low-income union councils in the city of Rawalpindi, a rights-based approach to sanitation was promoted. In 45 villages in Vehari District, community-led construction of school toilets and sanitation systems was encouraged.

83. In Peru, the Ministries of Housing, Construction and Sanitation, of Health, and of the Environment, with support from the Water and Sanitation Program of the World Bank and other partners, organized a national sanitation conference (PERUSAN), to raise awareness of the importance of sanitation and develop a shared vision of solutions based on a multisector approach. As part of the conference, the Water and Sanitation Program supported a media capacity-building programme for 30 journalists from regional and local media. In preparation for the national conference, six subnational sanitation conferences were held during the year.

84. In the Philippines, the Second National Sanitation Summit was held on the topic "Improving sanitation for better water quality and safety", in cooperation with the Asian Development Bank. Sustainable Sanitation in East Asia (SuSEA)-Philippines, an agency which aims to increase the access of poor Filipinos to sanitation services, was created by the Departments of Health and of the Environment and Natural Resources, with support from the Water and Sanitation Program of the World Bank. The Innovative Sanitation Interventions Project Fund was established to stimulate innovative solutions to sanitation and hygiene targeting the poor and other vulnerable groups.

85. In Sri Lanka, ecological sanitation policy and capacity-building were discussed at a workshop held in April 2008. New sanitation designs were implemented in 20 schools. In addition, a poster competition highlighting sanitation problems was organized.

86. In the Sudan, a two-day sanitation promotion workshop was held in South Darfur to raise awareness of the importance of sanitation and to advocate for supportive policies and regulations to promote sanitation.

87. In Timor-Leste, the national launch of the Year was opened by the Vice-President of the Parliament and was attended by more than 500 people. A campaign on good sanitation practices was conducted at the community level, with 2,788 family latrines being constructed.

88. In Ukraine, sanitation issues were promoted through a contest for journalists entitled "Safe sanitation for every citizen of Ukraine". A film about water and sanitation was produced, and posters on sanitation were placed in the Water Museum in Kyiv.

89. In the United Republic of Tanzania, a national policy on sanitation and hygiene and a national strategic plan on water, sanitation and hygiene at schools were developed. The National Steering Committee for Sanitation and Hygiene was established to guide actions on sanitation. WaterAid organized a sanitation workshop for media that was jointly facilitated by the Water and Sanitation Program of the World Bank and the national WASH coalition. The Government increased annual funding to the sector from US$ 1 million equivalent to almost US$ 10 million equivalent. The Ministry of Health and Social Welfare began developing a

national sanitation and hygiene policy and is issuing guidelines to all districts on how to implement sanitation and hygiene activities.

90. In Viet Nam, during the Year, UNICEF increased its budget for sanitation and hygiene from US$ 660,000 to US$ 800,000. In six provinces, the budget for sanitation increased from 10 per cent to 30 per cent, funded by the Netherlands, AusAID and Danish International Development Assistance through the National Target Program. The National Rural Sanitation Working Group was established to focus on the issue of sanitation.

91. In Yemen, the Year resulted in an extensive partnership with the private sector: about 10,000 bars of soap were distributed by the Unilever group. Other companies in the private sector also contributed to this campaign, such as Shamlan, which produced 5 million bottles of mineral water with a hand-washing logo.

92. In Zambia, a national launch was hosted by the Lusaka Water and Sewerage Company and opened by representatives from the Ministry of Local Government and Housing and UNICEF. A national debate on sanitation issues was organized and campaigns were carried out, including the "Make Zambia clean and healthy" campaign and an evidence-based awareness and advocacy campaign against the use of lime in cholera mitigation strategies.

VI. Conclusions

93. In terms of the three main expected results (awareness-raising, political buy-in and contributing to achievement of the Millennium Development Goal target on sanitation), the activities of the Year in many ways exceeded expectations. The momentum created at the global level, with the launch and various media- and organization-specific events, has slowly translated into activities and activism at the regional and national levels that are expected to continue well after the end of the Year. Beyond events and publications, the message of the Year, i.e. that sanitation matters and is an important development issue, has taken root around the world.

94. Not only did the Year provide an opportunity to put the issue of sanitation in the spotlight, it galvanized the efforts and thinking of the international community to work more effectively and coherently. The Year effectively provided the structure, guidance and support to design and launch meaningful national and regional events targeted at politicians, decision makers and the general public.

95. The Year attracted widespread interest and inspired a range of actions and partnerships in the area of sanitation. It also prompted action by international organizations, development banks, governments, non-governmental organizations, the private sector, sanitation experts and practitioners, artists and private citizens.

96. The basic purpose of the Year was to foster awareness-raising, advocacy and outreach. It is now important to build on the outputs of the Year and turn commitments into sustained action if the development goals are to be fully met. This can be achieved if the strong partnerships forged during the Year are maintained. It will take several years before the measurable impact of Year can be ascertained in terms of accelerated access to basic sanitation. A clear picture will emerge in 2012 when the WHO/UNICEF Joint Monitoring Programme is expected to assess data up to 2010.

97. Sanitation is a national development priority and requires the design and implementation of strong, gender-sensitive national policies and programmes. Governments should provide sanitation with an institutional "home" in order to strengthen networking among national and local authorities responsible for water, sanitation, health, the environment, education and finance.

98. The Year essentially focused on basic sanitation and did not encompass wastewater and water reuse issues. It is important to advocate for a broader view of sanitation that includes wastewater treatment. The importance of transferring and disseminating low-cost sanitation and wastewater treatment and reuse technologies cannot be overemphasized. The exchange of information on best practices among countries and the transfer of appropriate low-cost technologies should be promoted through technical training, simple manuals and capacity-building, with support from international and bilateral development agencies. There is equally a strong need to further identify and scale up innovative pro-poor approaches. In this connection, small-scale providers and entrepreneurs can play a significant role.

99. In general, capacity-building, education and training could be better targeted in such areas as technology, institutional development (including human resources), tariff and subsidy schemes, wastewater management, regulatory reform and financial management.

100. Most developing countries cannot achieve their sanitation goals and targets without the cooperation and support of the international donor community. Donor countries can assist developing countries by allocating higher portions of official development assistance to sanitation programmes, encouraging innovation, providing more financial assistance in the form of grants and improving donor coordination in implementation efforts.

101. For low-income countries with low levels of sanitation coverage, meeting the target may require that public spending is focused on basic, low-cost sanitation facilities for those currently without access, leveraging household and community investments. Microcredit programmes, which were originally intended for investment in income-generating activities, should be expanded to include housing improvements, such as water supply and sanitation.

102. Public-private partnerships can also play a role in financing and developing sanitation infrastructure. Efforts to mobilize large-scale private sector investment for urban sewerage and wastewater treatment systems in developing countries have been limited and should be encouraged.

103. Effective sanitation management requires strengthened systems to monitor the management of wastewater and water quality. The WHO/UNICEF Joint Monitoring Programme methodology and data collection for estimating sanitation coverage should be strengthened and supported to provide better global, regional and national information to assess progress towards the Millennium Development Goal target on sanitation. To help secure equitable access and to enhance gender-sensitive policy formulation, institutional capacity-building and the measurement and monitoring of the impact of water and sanitation projects and programmes on women and girls, the Joint Monitoring Programme needs to incorporate robust gender-disaggregated data.

104. Monitoring sanitation is a challenge, even more so than monitoring water, and progress at the national level will be key. National monitoring systems are often weak, yet they are the basis for planning for progress and policy formulation. Data-collection capabilities could benefit from capacity-building.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

The right to food

Seed policies and the right to food: enhancing agrobiodiversity and encouraging innovation

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report of the Special Rapporteur on the right to food, Olivier De Schutter, submitted in accordance with paragraph 36 of General Assembly resolution 63/187.

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Report of the Special Rapporteur on the right to food

Summary

The professionalization of breeding and its separation from farming leads to the emergence of a commercial seed system, alongside the farmers' seed systems through which farmers traditionally save, exchange and sell seeds, often informally. This shift has led to grant temporary monopoly privileges to plant breeders and patent-holders through the tools of intellectual property, as a means to encourage research and innovation in plant breeding. In this process, however, the poorest farmers may become increasingly dependent on expensive inputs, creating the risk of indebtedness in the face of unstable incomes. Private-led research may seek to satisfy the needs of farmers in industrialized countries, while neglecting those of poor farmers in developing countries. The farmers' seed systems may be put in jeopardy, although most farmers in developing countries still rely on such systems, which, for them, are a source of economic independence and resilience in the face of threats such as pests, diseases or climate change. Finally, agrobiodiversity may be threatened by the uniformization encouraged by the spread of commercial varieties.

The present report explores how States could implement seed policies that contribute to the full realization of human rights. It identifies how research and development could best serve the poorest farmers in developing countries, and how commercial seed systems could be regulated to serve the right to food and ensure the right of all to enjoy the benefits of scientific progress. Finally, it examines how farmers' seed systems could be best supported, in order to serve the interest of all in the preservation of agrobiodiversity.

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I. Introduction

1. The present report[1] examines the impact of seed policies and intellectual property rights in agriculture on the realization of the right to adequate food.[2] It seeks to provide guidance to States as to how to implement seed policies that fully take into account both the need to favour innovation in agriculture and to ensure that the kind of innovation which is promoted contributes to the full realization of the right to food. It is the result of a large number of consultations held with farmers' organizations, the secretariats of the World Intellectual Property Organization (WIPO), of the International Union for the Protection of New Varieties of Plants (UPOV), of the International Treaty on Plant Genetic Resources for Food and Agriculture within the Food and Agriculture Organization of the United Nations (FAO), and of Bioversity International, and various non-governmental organizations, as well as a number of academic experts.[3] In 2008, the International Assessment of Agricultural Knowledge, Science and Technology for Development concluded that "[t]echnologies such as high-yielding crop varieties, agrochemicals and mechanization have primarily benefited the better resourced groups in society and transnational corporations, rather than the most vulnerable ones. To ensure that technology supports development and sustainability goals, strong policy and institutional arrangements are needed ...". Just like research and development in agriculture in general, seed policies must be guided, not by a preconceived view about the benefits technology can bring to farming, but by a careful examination of their impacts on food security and, specifically, on the ability of the most vulnerable farmers to improve their livelihoods.

2. The development of a commercial breeding sector separate from farming and, more recently, of a biotechnological sector, has led to increased demands for the protection of the rights of breeders and inventors of biotechnologies, demands which now have penetrated at the global level. The shift from agricultural research as a public good providing farmers with seeds incorporating advanced traits to the granting of temporary monopoly privileges to plant breeders and patent-holders through the tools of intellectual property is essentially defended as a means to reward, and thus incentivize, research and innovation in plant breeding. But it may also create challenges for States, which this report documents in section III.

3. A human rights framework may assist States in addressing these challenges. This framework obliges us to ask not only which policies may maximize yields — agricultural outputs — but also, and primarily, who will benefit from any increases achieved by whichever policies are put in place. The right to food requires that we place the needs of the most marginalized groups, including in particular smallholders in developing countries, at the centre of our efforts.

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[1] This report is based on the longer version, containing the references, prepared by the Special Rapporteur and available from the website http://www.ohchr.org.

[2] The report does not discuss the impact of intellectual property rights on the raising of livestock or on fishing, although similar issues — concerning the access of herders and fishers to productive resources — may arise in these areas. Nor does the report discuss the specific questions raised by genetically modified organisms in agriculture, since research on the impacts on the right to food is still ongoing.

[3] The contributions received from these experts have greatly enriched the information on which this report is based. A set of contributions prepared by these experts for the mandate and coordinated by S. Dusollier is available from www.srfood.org; it will be referred to as the "experts' submission" in the remainder of this report.

4. Article 11 of the International Covenant on Economic, Social and Cultural Rights imposes on States three levels of obligations in the realization of the right to food. First, States have an obligation to respect existing access to adequate food. This requires that States do not take any measures that result in preventing such access (see E/C.12/1999/5, para. 19). The introduction of legislation or other measures which create obstacles to the reliance of farmers on informal seed systems may violate this obligation, since it would deprive farmers from a means of achieving their livelihood: Guideline 8.1 of the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security[4] provides that States should "protect the assets that are important for people's livelihoods".

5. Second, States have an obligation to protect the right to food: this obligation would be violated if a State failed to regulate the activities of patent-holders or of plant breeders, so as to prevent them from violating the right to food of the farmers depending on those inputs in order to be able to continue to farm (see E/C.12/1999/5, para. 19; and Guideline 8.5 of the FAO Voluntary Guidelines). Thus, the Committee has recommended that India provide "State subsidies to enable farmers to purchase generic seeds which they are able to reuse, with a view to eliminating their dependency on multinational corporations" (E/C.12/IND/CO/5, para. 69).

6. Finally, States have an obligation to fulfil the right to food. They must facilitate it by proactively strengthening people's access to and utilization of resources and means to ensure their livelihood, including food security (E/C.12/1999/5, para. 15); they must also "improve methods of production [...] of food by making full use of technical and scientific knowledge", according to article 11 (2) (a), of the International Covenant on Economic, Social and Cultural Rights and Guideline 8.4.

7. These obligations apply both to the regulation of commercial seed systems and to the preservation and enhancement of informal or traditional farmers' seed systems. The separation of seed production and improvement from farming and the emergence of biotechnologies has led to a commercial seed system on which farmers are increasingly dependent. That system therefore has to be regulated in order to ensure that farmers have access to inputs on conditions which are reasonable, thus helping them to achieve an adequate standard of living; and they should ensure that the innovations leading to improved varieties and to new plant resources benefit all farmers, including the most vulnerable and marginalized among them. This follows both from article 11 (2) (a), of the International Covenant, cited above, and from the right of everyone to enjoy the benefits of scientific progress and its applications, recognized in article 15 (1) (b), of the Covenant, which could be relied upon in order to justify recognizing a right of access of farmers to seeds which are not in open access. But States also should ensure that informal, non-commercial seed systems can develop: they should not interfere with such systems without adequate justification; they should protect such systems from interference by third parties; and they should proactively ensure that these systems can expand, despite the pressure imposed by the commercial seed system. Only a balanced approach between these two sets of obligations will ensure that the farmers will be in a position to make a fully free and informed choice between these systems, which are alternative ways for them to pursue their livelihoods.

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[4] FAO, *Report of the Council of the Food and Agriculture Organization of the United Nations, One Hundred and Twenty-seventh Session, Rome, 22-27 November 2004* (CL 127/REP), appendix D; see also E/CN.4/2005/131, annex.

8. In seeking to assist States in taking into account human rights in the implementation of their seed policies, the present report therefore underlines the obligation of States to use to the fullest extent required by human rights the flexibilities included in the international agreements related to intellectual property rights, consistent with the obligation to protect the right of everyone to enjoy the benefits of scientific progress and its applications, and the right to food, including access to productive resources. But account is also taken of the urgent need to support traditional knowledge, innovations and practices, as a source of adaptation of local communities to new threats such as climate change, soil erosion or outbreaks of new crop diseases.

9. Section II of this report describes the existing international legal framework and the different regimes which relate to intellectual property rights and biodiversity protection. Section III describes the challenges faced by States and identifies which measures States could take in order to ensure that their seed policies contribute to the realization of the right to food. Section IV summarizes the conclusions and recommendations.

II. The developing regime of intellectual property rights and biodiversity protection

10. Domestic legislation and policies in this area are increasingly influenced by the changing framework of international law. We have witnessed in recent years an important strengthening of intellectual property rights at the global level, at the request of developed countries and for the benefit of companies from these countries. At the same time, efforts are made to reaffirm the sovereignty of States over their genetic resources, as a means to reward the contributions States and communities make to preserving biodiversity. Even more recently, the importance to food security of the accessibility of plant genetic resources for food and agriculture has been recognized, and an ambitious multilateral system for access and benefit-sharing has been put in place in order to reconcile the needs of innovation and the protection of crop genetic diversity.

A. The expansion of intellectual property rights

11. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) requires from members of the World Trade Organization (WTO) that a minimum patent protection of 20 years be available for all inventions, whether of products or processes, in almost all fields of technology. Protection is optional for plants and animals (other than micro-organisms), as well as for essentially biological processes used in the production of plants or animals (other than microbiological processes). However, members of WTO must provide for the protection of plant varieties either by patents, by an effective sui generis system or by any combination thereof (article 27 (3) (b)).

12. Patents provide the right-holder with a 20-year monopoly on any use of the patented invention. They may apply to seeds, plant cells or DNA sequence. The importance of patents in plants has grown with the recent rise of agricultural biotechnology, particularly of transgenic crops which have been commercialized since 1996. Farmers cultivating patented seeds do not have any rights over the seeds

they plant. They are considered to be licensees of a patented product, and they frequently are requested to sign agreements not to save, resow or exchange the seeds which they buy from patent-holders. Patents are the most far-reaching form of protection that can be granted.

13. Plant varieties may be protected, alternatively, by the recognition of plant breeders' rights. The International Convention for the Protection of New Varieties of Plants, developed under the auspices of UPOV, currently has 67 member States, including all large commercial powers with the notable exception of India.[5] It protects the rights of plant breeders provided they develop plant varieties which are new, distinct, uniform and stable (article 5 (1)). These criteria are lower than for the delivery of patents. Because of its requirement of uniformity and stability, however, the UPOV Convention does not allow the protection of farmers' varieties, which are inherently unstable and in permanent evolution.

14. The 1991 version of the UPOV Convention contains a number of flexibilities. But it also strengthens the protection of original plant breeders' rights in comparison to previous versions: it extends the duration of the protection from a minimum of 15 years to a minimum of 20 years (from 20 to 25 years for vines and trees); it prohibits not only the production for the purposes of commercial marketing, and the sale and marketing of propagating material of the variety, but also "production or reproduction; conditioning for the purpose of propagation; offering for sale; selling or other marketing; exporting; importing; and stocking for the above purposes", without the authorization of the breeder (article 14 (1)); these prohibitions extend beyond the reproductive or vegetative propagating material, to the harvested material obtained through the illegitimate use of propagating material (article 14 (2)) and so-called "essentially derived" varieties (article 14 (5)); finally, it restricts the so-called "farmer's privilege" by removing the possibility for States to allow farmers to exchange or sell seeds saved from the harvest of protected varieties: article 15 of the 1991 UPOV Convention only allows restricting breeders' rights "in order to permit farmers to use for propagating purposes, *on their own holdings*, the product of the harvest which they have obtained by planting (...) the protected variety" (emphasis added).

15. Members of WTO who wish neither to grant patents on plant varieties nor to grant plant variety protection under the UPOV Convention may opt for a sui generis form of protection, best suited to their specific circumstances. In particular, if they feel that the farmers' privilege is unduly restricted under the 1991 version of the UPOV Convention, they may wish to establish a sui generis protection for plant varieties allowing them to preserve the well-established practices of saving, sharing and replanting seeds, as well as the equally traditional practices of local farming communities to conserve and sustainably use biological diversity, including through the selection and breeding of plant varieties.[6]

16. Nevertheless, in practice, most countries have been led to adopt UPOV-compliant domestic legislation. This may be the result of technical advice provided to developing countries, which often consists of recommending the adoption of UPOV-compliant domestic legislation, without taking into account the specific

[5] Most States are parties to the most recent version, 1991, of the UPOV Convention. However, Brazil, Canada, China and South Africa are parties to the 1978 version of the Convention.

[6] Commission on Intellectual Property Rights (United Kingdom of Great Britain and Northern Ireland), *Integrating Intellectual Property Rights and Development Policy*, 2002, chap. 3.

needs of the countries concerned or, for instance, differentiating between crops. A number of developing countries have also been pressured to adopt national legislation that is in compliance with the 1991 version of the UPOV Convention, as part of trade agreements they have concluded. Some free trade agreements require the introduction of patent protection for plants, animals and biotechnological innovations. Others refer to the need for both parties to ratify the 1991 UPOV Convention, or to adopt legislation complying with that instrument.

17. Initiatives have been developing to resist this trend. The African Union has developed an African Model Law for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources, which aims to achieve a balance between the protection of breeders and the preservation of local farmers' rights in the interest of the sustainable use of biodiversity. When India enacted the Protection of Plant Varieties and Farmers Rights Act in 2001, it sought to protect plant varieties, while at the same time enabling farmers to save, resow, exchange and sell new plant varieties developed by farmers and breeders.

B. The protection of biodiversity and the risk of misappropriation of genetic resources

18. One of the concerns raised by the extension of the TRIPS minimum standards to life forms is that the patentability of plants or animals could encourage the appropriation of genetic resources without the consent of, or without adequate sharing of the benefits with, the farmers and communities which have developed those resources in the first place. In 1992, the Convention on Biological Diversity was concluded in part to avert that risk, with the aim of ensuring the conservation of biological diversity and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources (article 1). It has now achieved almost universal ratification with 191 States parties, with the notable exceptions of Somalia and the United States of America. The Convention requires each Party to adopt a number of measures to maintain biological diversity, including in situ and ex situ conservation measures (articles 6, 7 and 8). Article 15 of the Convention, which is on access to genetic resources, implements the principle according to which each State has the sovereign right to exploit its own resources pursuant to its own environmental policies (see also article 3). The authority to determine access to genetic resources rests with the national governments (article 15 (1)), although the Parties at the same time should create conditions to facilitate access to genetic resources for environmentally sound uses by other Parties (article 15 (2)). Access to genetic resources, when granted, shall be on mutually agreed terms (article 15 (4)); it shall be subject to prior informed consent of the Party providing genetic resources (article 15 (5)) and on the basis of benefit-sharing (article 15 (7)).

19. The implementation of the Convention on Biological Diversity remains controversial on a number of points, including its relationship to the TRIPS Agreement.[7] It is generally agreed that, in order to ensure that the intellectual property regime they adopt will not be in violation of the Convention, States should

[7] The issue is part of the Doha Development Round of trade negotiations. See paragraph 19 of the Doha Ministerial Declaration (A/C.2/56/7, annex) and, for a review of the positions adopted by members of WTO within the TRIPS Council, WTO document IP/C/W/368/Rev.1 (8 February 2006).

at a minimum abstain from granting patents relating to biological materials which have been obtained in violation of the requirements of prior informed consent and fair and equitable benefit-sharing under the national system of the country of origin of the genetic resources, as indeed allowed under the TRIPS Agreement.[8] It would, however, be consistent with the idea of international cooperation inherent in the Convention to go beyond that, and for States to abstain from granting a patent on biological materials without requiring from those applying for the patent that they disclose where the materials originate from and that they provide information about the source and how the access and benefit-sharing requirements imposed in the source country have been fulfilled. This requirement of prior disclosure would be further strengthened by amending the TRIPS Agreement in order to include such an obligation, in order to make it more explicit. This would increase confidence among bioprospectors and biodiversity-rich countries and indigenous communities.

C. Crop genetic diversity as a global public good

20. The implementation problems facing the Convention on Biological Diversity run deeper, however, than these controversies about interpretation suggest. The Convention has failed to generate sufficient benefits to fund the conservation of biodiversity. It sometimes has created insuperable obstacles to the access of both researchers and the bioindustry to genetic resources. Most importantly, the access and benefit-sharing regime introduced by the Convention, while perhaps suited to avoid the misappropriation of genetic resources for medicines, is not adequate for domesticated plant genetic resources. Numerous farmers and farming communities have been involved in creating and maintaining genetic resources. Crop traits are genetically complex, owing their characteristics to a large number of genetic resources, conserved both within and outside their places of origin.

21. Because of these characteristics, it has been concluded that domesticated plant genetic resources should be treated as a common pool, rather than as "property" of any particular State or local community. With the adoption of the International Treaty on Plant Genetic Resources for Food and Agriculture, a multilateral system was established to facilitate access to plant genetic resources for food and agriculture and to share the benefits in a fair and equitable way. It currently has 120 States parties, but in addition, the 11 International Agricultural Centres of the Consultative Group on International Agricultural Research (CGIAR) holding ex situ collections of Plant Genetic Resources for Food and Agriculture, as well as the Centro Agronómico Tropical de Investigación y Enseñanza and two of the four organizations hosting collections as part of the International Coconut Genetic Resources Network, have placed the collections they host under the framework of the Treaty, to be accessed according to the same rules.

22. The International Treaty on Plant Genetic Resources for Food and Agriculture seeks to establish a novel system of governance for global commons, ensuring permanent access to a large pool of genetic resources for the development of new and improved plant resources. Although the Treaty applies to all plant genetic resources for food and agriculture, its most original component — the Multilateral System of Access and Benefit-Sharing (MLS) — applies only to the plant genetic resources for food and agriculture listed in annex I to the Treaty that are under the

[8] See articles 27 and 62.1 of the TRIPS Agreement.

management and control of the States parties and in the public domain (article 11 (2)). This global pool comprises 64 food crops that make up more than 1 million samples of known plant genetic resources. The Multilateral System, which applies to these resources, is based on the idea that, while States have sovereign rights over their own plant genetic resources for food and agriculture, they agree to facilitate access to such plant genetic resources for the purpose of "utilization and conservation for research, breeding and training for food and agriculture" (article 12 (3) (a)), and to share, in a fair and equitable way, the benefits arising from the utilization of these resources.

23. Using the Standard Material Transfer Agreement, recipients may use the materials for food and agriculture for free, or for the minimal costs involved (article 15). If, incorporating such materials, they then commercialize a final product that is itself a plant genetic resource for food and agriculture and restrict others from using it for research and breeding, they must pay an equitable share of the benefits arising from the commercialization of that product, set by the Governing Body of the International Treaty at 1.1 per cent of the sales of the product (minus 30 per cent), or at 0.5 per cent of the sales over a 10-year period of commercialization of the same crop. These royalties are to be paid into a common fund created under the Treaty. The benefits arising from the MLS should flow primarily to farmers, especially in developing countries and countries with economies in transition, which conserve and sustainably utilize plant genetic resources for food and agriculture (article 13 (3)). Although these royalties shall only be paid to the fund in the next few years, it was announced at the third session of the Governing Body, convened in Tunis from 1 to 5 June 2009, that projects in 11 developing countries that conserve food seeds and other genetic material from major crops will receive US$ 50,000 each to support their efforts. This remains a very small sum in comparison to the needs.

III. Redirecting innovation towards the realization of the right to food

24. The renewed interest in agriculture since the global food crisis of 2007-2008 confronts Governments and the international community with important choices concerning the direction of future agricultural development. At least 1.5 billion individuals depend on small-scale farming for their livelihoods. Developing agriculture by ensuring that farmers, particularly small-scale farmers, have access to improved varieties of seeds has been a central component of a model of agricultural development sometimes called the "green revolution" model. Support to these farmers often takes the form of the provision of inputs, particularly seeds and fertilizers but including also pesticides, since one of the reasons why small-scale farmers are poor and cannot move beyond subsistence farming is because of the high prices of inputs and the lack of access to credit. But this form of support can create its own problems. First, although commercial seed varieties may improve yields in the short term, their higher performance often has been a response to inputs (fertilizers) and to water availability, making it difficult for farmers unable to access to such inputs and conditions to reap their benefits. Those who acquire inputs with their own means, often encouraged to do so during an initial period of subsidized inputs, may find themselves trapped in the vicious circle of debt as a result of a bad harvest and consequent impossibility to reimburse input loans. This may occur particularly when they have switched to monocropping leading to revenues which

may be higher in certain seasons but less stable across the years, and diminish resilience in the face of climate change. Second, commercial seed varieties may be less suited to the specific agroecological environments in which farmers work, and for which landraces (traditional farmers' varieties) may be more appropriate. Finally, the expansion of surfaces cultivated with commercial seeds accelerates crop diversity erosion, as an increasing number of farmers grow the same crops, using the same, "improved" varieties on their fields.

25. States therefore face two separate challenges. They must ensure that the commercial seed systems not only raise aggregate yields, but also that they work for the benefit of the farmers most in need to have their incomes raised — smallholders in developing countries. And they must support farmers' seed systems, on which not only these farmers depend, but the enhancement of which is vital, in addition, for our long-term food security.

A. Intellectual property rights in the commercial seed systems and the right to food

26. There are clear benefits to the development of new varieties of plants. Varieties that offer high yields when adequate conditions are present and when combined with appropriate inputs can limit the expansion of cultivated land and thus save virgin soils, which are a reservoir of biodiversity; certain varieties can have improved nutritional values, or specific disease resistance; and certain crops can be developed which are suitable for saline, dry or other marginalized soils. The granting of intellectual property rights in the form of patents or plant breeders' rights is primarily justified by the need to encourage such innovations, by allowing the patent-holder or the breeder to be rewarded for the investment made in the development of a new variety, following a model of commercial plant breeding typical of industrialized countries.

27. Yet, at the same time, a number of concerns are raised by the development of intellectual property rights over the past few years. It will lead to transfers of resources from technology users to technology producers, both within States and between States. The oligopolistic structure of the input providers' market may result in poor farmers being deprived of access to seeds productive resources essential for their livelihoods, and it could raise the price of food, thus making food less affordable for the poorest.[9] Three other concerns are more specific and deserve a separate comment.

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[9] See, in particular, *Tracking the trend towards market concentration: The case of the agricultural input industry*, United Nations Conference on Trade and Development secretariat, April 2006; ETC Group, *Who Owns Nature? Corporate Power and the Final Frontier in the Commodification of Life*, November 2008. According to the ETC Group, the top 10 seed companies account for 67 per cent of the global proprietary seed market; the world's largest seed company alone, Monsanto, accounts for 23 per cent of that market; and the top three companies (Monsanto, DuPont and Syngenta) account for 47 per cent of the market, including 65 per cent of the maize seed market and over half of the proprietary soybean seed market. It is this concentration, rather than the introduction of intellectual property rights alone, that may result in excessively high prices for agricultural inputs: see Lesser et al., "Intellectual Property Rights, Agriculture and the World Bank", in U. Lele et al. (eds.), *Intellectual Property Rights in Agriculture: The World Bank's Role in Assisting Borrower and Member Countries*, The World Bank, Washington, D.C., pp. 1-21, at 9.

1. The research exemption

28. Excessive protection of breeders' rights and patents may discourage innovation in the name of rewarding it. Applied research and crop improvement is a cumulative process, based on pre-existing plant material. Each incremental improvement that involves a new technology therefore faces the constraints of intellectual property and germ plasm which accumulate in the plant material. In jurisdictions such as the United States or the European Union where patents can be granted on life forms, there is a risk that further research will be impeded, rather than encouraged, as it would depend on the possibility to use patented material. The growing importance in recent years of patents on life forms, itself the result of the progress of biotechnology, may result in increasing restrictions to both farmers' and research exemptions, which plant variety protection (PVP) regimes generally include.

29. It is therefore welcome that a number of countries, including the Andean Pact countries, Brazil and Argentina, have chosen not to grant patents on plants. Although a number of countries not allowing patents on plants are parties to the 1991 UPOV Convention, this instrument should not be seen as an obstacle to establishing research exemptions in legislation protecting plant breeders' rights. It provides for exceptions for "acts done privately and for non-commercial purposes [and] for experimental purposes" (article 15 (1) (i) and (ii)); it allows national legislation that permits farmers "to use for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting, on their own holdings, the protected variety" (article 15 (2)); and it provides for the possibility of restricting breeders' rights for reasons of public interest (article 17 (1)).

30. But even those countries that chose to grant patents on plants may, consistent with article 30 of the TRIPS Agreement, introduce such an exemption, although the practice varies across countries. Members of WTO comply with TRIPS provided the exceptions imposed on patent-holders' rights remain limited; and provided patent-holders can still "extract economic value from their patent" and can "claim a 'legitimate interest' in the economic benefits".[10] A broad reading of the limitations which can be imposed on the definition of patent rights contained in article 28 of the TRIPS Agreement would be consistent with the intentions guiding the Agreement, as expressed in articles 7 and 8.

31. The granting of a research exemption may not be sufficient, however, since researchers face problems of delayed or blocked access to needed research tools because of a poor functioning of material transfer agreements.[11] Innovative techniques to overcome barriers to research on patented material may have to be developed further.[12] In situations where multiple patent-holders have patents in one variety, forming a "patent thicket", a patent pool could be formed, through which those patent-holders agree to license one or more of their patents as a package to one another, and to third parties (users) willing to pay the associated royalties: this is what was done, for example, for golden rice. Clearing houses could be set up, in order to facilitate the matching between users and patent-holders, particularly in situations of "patent thickets": a major example of this in the area of agricultural biotechnology is the Public Intellectual Property Resource for Agriculture (PIPRA),

[10] Canada — Pharmaceuticals (WT/DS114/R), paras. 7.56 and 7.61.

[11] Lei et al., "Patents versus Patenting: Implications of Intellectual Property Protection for Biological Research", *Nature Biotechnology*, 2009, pp. 36-40.

[12] The Special Rapporteur is indebted to Ms. G. Van Overwalle for the preparation of this section.

an alliance of more than 40 public institutions from more than 12 countries that seeks to decrease barriers created by intellectual property and to facilitate technology transfer by pooling their efforts to increase dissemination of innovations in staple and specialty crops, in particular by providing a one-stop intellectual property information clearing house for access to public sector patented technologies. Finally, research can be encouraged by developing open source experiments such as the Biological Open Source (BiOS) Licence pioneered in Canberra by the Centre for the Application of Molecular Biology to International Agriculture (CAMBIA), which puts the GUS and TransBacter technologies at the free disposal of researchers in agricultural biotechnology, without any condition other than to ensure that any improvements made to these enabling tools will be shared under the BiOS open source licence regime.

32. Where patents restrict research in ways which may have an impact on food security and are an obstacle to face situations of "national emergency" or other "extreme urgency", for instance in the face of declining crop productivity, article 31 of the TRIPS Agreement allows compulsory licensing.[13] Inspiration may be sought in this regard from the Patents and Plant Variety Rights (Compulsory Licensing) Regulations adopted in the United Kingdom of Great Britain and Northern Ireland in 2002, which allow applying for a licence to acquire or develop a new plant variety, which "constitutes significant technical progress of considerable economic interest in relation to the invention protected by the patent".[14] In addition, in line with the general purposes of the TRIPS Agreement, intellectual property rights may be restricted in the public interest, for instance through the doctrine of eminent domain.[15] And developed countries may make available to developing countries any biotechnologies developed through public research without the need for a licence or other permission.

33. In the short term, these tools may be appropriate, for instance, to limit the negative impacts of the recent trend towards patent claims made following the adaptation of specific gene traits that could confer one or more forms of stress tolerance linked to climate change (including salinity, drought or flood, heat or cold). In the long term, a procedure may have to be set up to allow the granting of non-exclusive licences to any requesting party for the use of any patented tool of biotechnology in order to ensure food security in developing countries.

2. The direction of research: "orphan crops"

34. The marked increase in intellectual property protection has led to a significant rise in patenting activity and in plant breeding.[16] But it also has created an imbalance between the private and the public sectors in agricultural research: for a number of reasons, public research centres are less able to benefit from the

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[13] On the possibilities of compulsory licensing and eminent domain doctrines to overcome the obstacles created by patents, see the contribution of Michael Blakeney to the experts' submission.

[14] These Regulations implement article 12 of Directive 98/44/EC of the European Parliament and of the Council of the European Union on the legal protection of biotechnological inventions (OJ L 213, 30.7.98, p. 13).

[15] Michael R. Taylor and Jerry Cayford, "Biotechnology Patents and African Food Security: Aligning America's Patent Policies and International Development Interests", *Harvard Journal of Law & Technology*, vol. 17, p. 323.

[16] See *UPOV, Report on the Impact of Plant Variety Protection*, 2005.

protection of intellectual property rights than private firms.[17] In turn, this has led to orientate research and development towards meeting the needs of farmers in rich countries, while the needs of poor farmers in developing countries have been comparatively neglected.[18] Very little research has benefited tropical maize, sorghum, millet, banana, cassava, groundnut, oilseed, potato or sweet potato, for example. These are referred to as "orphan crops": public research centres have not made up for the lack of interest of the private sector in these crops.

35. It is therefore vital either that the capacity of the public research centres and associated funding be increased, or that incentives be developed in order to reorient research and development in the private sector towards the real needs of poor farmers in developing countries. Participatory plant breeding, if sufficiently supported through domestic public policies, could partially compensate for the existing imbalance.

3. The impact of intellectual property rights on farmers' seed systems

36. The standard argument against the risk of increased dependency of smallholders towards commercial seed varieties is that farmers are not obliged to purchase plant variety protection (PVP)-protected seed just because it is made available. This, however, presupposes that farmers have real alternatives to acquiring their seed from the commercial system. Yet the coexistence between farmers' seed systems — operating at local or community levels between farmers, and mostly informal — and commercial seed systems is sometimes problematic.[19] Public authorities have supported the expansion of commercial seeds not only through plant variety protection schemes, but also through the use of input subsidies and via the diffusion of selected seeds in rural extension networks. Farmers often receive commercial varieties as part of a package that includes credit (often vouchers), seed, fertilizer and pesticide. In many cases, acceptance of such packages is the only way farmers can access credit in rural areas. They need to accept the whole package in order to do so. In addition, traditional varieties circulating farmers' seed systems — and on which the vast majority of farmers in developing countries still rely for most crops — are often excluded from government-approved seed lists that countries maintain under their seed regulations, and they are seldom included in seed distribution programmes subsidized by governments. The end result is a progressive marginalization or disappearance of local varieties.

37. Such a development may be consistent with a linear idea of progress favouring the replacement by high-yielding varieties of traditional crop varieties in the most productive areas. Yet it is a deeply problematic development even apart from the increased dependency of farmers it leads to. Farmers' seed systems may be particularly important to resource-poor farmers in resource-poor agroecological environments, because of the importance, for production in such environments, of

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[17] See United Nations Development Programme, *Human Development Report 2001: Making New Technologies Work for Human Development*, chapter 5, table 5.1.

[18] Only 6 per cent of privately funded agricultural research is focused on developing country agriculture: Nienke M. Beintema and Gert-Jan Stads, *Measuring Agricultural Research Investments: A Revised Global Picture*, 2008, available from http://www.asti.cgiar.org/pdf/global_revision.pdf.

[19] See C. J. M. Almekinders and Niels P. Louwaars, *Farmers' Seed Production. New Approaches and Practices*, London, Intermediate Technology Publications, 1999; Niels Louwaars, *Seeds of Confusion. The impact of policies on seed systems*, Ph.D., Wageningen Universiteit, 2007, p. 29.

locally adapted varieties. Production may not be discussed independently of distribution. Aiming to achieve food security simply by providing farmers with seeds that are high-yielding in certain conditions is premised on seeing food security as primarily a problem of production, when issues of accessibility are at least equally as important: the question which is omitted from this view is who will benefit from increased production, and the incomes of which groups will rise in comparison to those of other groups.

38. The spread of commercial varieties also raises the question of its impact on crop genetic diversity. For thousands of years, stability in the level of protection was achieved thanks to the coexistence of an array of plants, presenting different traits making them resistant to specific diseases, to drought, or to variations in temperature. This crop genetic diversity is now under severe threat. All efforts have been put into the development of a limited number of standard, high-yielding varieties, so that barely more than 150 species are now cultivated; most of mankind now lives off no more than 12 plant species, with the four biggest staple crops (wheat, rice, maize and potato) taking the lion's share.[20] It is estimated that about 75 per cent of plant genetic diversity has been lost as farmers worldwide have abandoned their local varieties for genetically uniform varieties that produce higher yields under certain conditions.[21] In addition, genetic diversity within crops is decreasing. In 1992-1993 for instance, 71 per cent of the commercial corn crop in the United States came from six varieties, 65 per cent of the rice from only four varieties, 75 per cent of the potato crop came from four varieties, 50 per cent of the soybeans crop from six varieties, and 50 per cent of the wheat from nine varieties. In Sri Lanka, 2,000 varieties of rice were cultivated in 1959; in 1992 they were fewer than 100, 75 per cent descending from a common stock. In Bangladesh and Indonesia, respectively, 62 and 74 per cent of the rice varieties descend from a common stock.[22] Such wide-scale genetic erosion increases our vulnerability to sudden changes in climate, and to the appearance of new pests and diseases.[23]

39. The expansion of intellectual property rights can constitute an obstacle to the adoption of policies that encourage the maintenance of agrobiodiversity and reliance on farmers' varieties. Intellectual property rights reward and encourage standardization and homogeneity, when what should be rewarded is agrobiodiversity, particularly in the face of the emerging threat of climate change and of the need, therefore, to build resilience by encouraging farmers to rely on a diversity of crops. In addition, intellectual property rights — particularly patents granted on plants or on genes or DNA sequences — can constitute a direct impediment to innovation by farmers. The preservation of agrodiversity and the development of farmers' seed

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[20] José Esquinas-Alcázar, "Protecting crop genetic diversity for food security: political, ethical and technical challenges", *Nature*, December 2005, vol. 6, pp. 946-953. See also Timothy Swanson, *Global Action for Biodiversity*, James & James Science Publishers, 2005 (originally published in Earthscan Publications, London, 1997), p. 52.

[21] D. Nierenberg and B. Halweil, *Cultivating Food Security*, New York, W. W. Norton & Co., 2005.

[22] World Conservation Monitoring Center, *Global Biodiversity: Status of the Earth's living resources*, London: Chapman and Hall, 1992; Stephen R. Gliessmann, *Agroecology: the ecology of sustainable food systems*, Technology & Engineering, 2006, p. 193.

[23] See Heal et al., "Genetic diversity and interdependent crop choices in agriculture", *Resource and Energy Economics*, vol. 26(2), June 2004, pp. 175-184. Genetic diversity is also important to food security for other reasons, less relevant in the context of this report. For an overview, see United Nations Environment Programme, *The Environmental Food Crisis: the Environment's Role in Averting Future Food Crises*, February 2009, pp. 65-76.

systems relies not only on the use of landraces (traditional, non-PVP-protected varieties) but also on the saving, exchange or sale of harvested seeds, since it is often the case that traditional varieties can be combined with modern varieties in order to produce varieties which perform better in specific local environments. However, although article 9 (3) of the International Treaty on Plant Genetic Resources for Food and Agriculture refers to the rights of farmers to save, use, exchange and sell farm-saved seed/propagating material, this right is only recognized "subject to national law and as appropriate", and restrictions to farmers' rights in order to better protect breeders' rights are common.

40. The strengthening of breeders' rights in the 1991 UPOV Convention is also a concern in this regard. This convention prohibits the commercialization of varieties which are essentially derived from a PVP-protected variety (article 14 (5)), and farmers are now prohibited from exchanging or selling seeds saved from the harvest of protected varieties (article 15). In order to circumvent these limitations, developing countries where the function of traditional, farmers' seed systems is most important both for the prevention of genetic erosion and for the livelihoods of farming communities should design sui generis forms of protection of plant varieties which allow these systems to flourish, even if this means adopting non-UPOV compliant legislation; and if they do join UPOV, they should use all the flexibilities available to them.

41. In identifying the system of intellectual property rights best suited to their specific needs, States could be supported by independent and participatory human rights impact assessments, in order to inform their choices.[24] But the use by States of the flexibilities they are allowed should not be discouraged either by international agreements or by private initiatives. No State should be forced to establish a regime for the protection of intellectual property rights which goes beyond the minimum requirements of the TRIPS Agreement: free trade agreements obliging countries to join the 1991 UPOV Convention or to adopt UPOV-compliant legislation, therefore, are questionable. Nor should the use of the existing flexibilities by States be nullified by private barriers. Indeed, even in the absence of strong intellectual property rights protections in certain jurisdictions or in addition to such protections, companies selling seeds may resort to contractual clauses (technology use agreements) or genetic use restriction technologies (GURTs) in genetically modified seeds, in order to protect their privilege. Although the reliance on GURTs has been halted owing to adverse publicity, the Special Rapporteur has received information according to which this de facto moratorium may be only temporary. These barriers should be prohibited in the domestic legislation on intellectual property rights.

B. Farmers' seed systems and the right to food

42. In South Asia and sub-Saharan Africa, the overwhelming majority of farmers still rely on traditional farmers' seed systems in order to grow their crops. Women play a key role in these systems: up to 90 per cent of planting material used in smallholder agriculture is seed and germ plasm produced, selected and saved by women, and it is predominantly women who grow and preserve underutilized

[24] See G. Dutfield, "Making TRIPS work for developing countries", in G. Sampson and W. B. Chambers (eds.), *Developing Countries and the WTO: Policy Approaches*, United Nations University Press, 2008.

species which local communities use to supplement their diets.[25] Reliance by farmers on farmers' seed systems allows them to limit the cost of production by preserving a certain degree of independence from the commercial seed sector. The system of unfettered exchange in farmers' seed systems ensures the free flow of genetic materials, thus contributing to the development of locally appropriate seeds and to the diversity of crops. In addition, these varieties are best suited to the difficult environments in which they live. They result in reasonably good yields without having to be combined with other inputs such as chemical fertilizers. And because they are not uniform, they may be more resilient to weather-related events or to attacks by pests or diseases. It is, therefore, in the interest of all, including professional plant breeders and seed companies which depend on the development of these plant resources for their own innovations, that these systems be supported.

1. Promoting and protecting farmers' rights

43. One means to restore an adequate balance between the rights of plant breeders and the needs of farmers is by strengthening the protection of farmers' rights under domestic and international law. The recognition of farmers' rights, as under article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture, is vital to the preservation of agrobiodiversity.[26] However, article 9 of the Treaty by itself will not suffice. These so-called farmers' "rights" remain rights without remedies: they are rights only by name. The provision remains vague, and implementation of this provision is highly uneven across the States parties. This is in sharp contrast with the enforcement, at international level, of plant breeders' rights and biotech-industry patents. Furthermore, there exists no forum in which the implementation of farmers' rights in various settings is discussed, in order to provide benchmarks and examples of good practices which Governments could seek inspiration from.

44. At the third session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture, held in Tunis in June 2009, steps were taken to encourage States to implement more fully article 9 of the Treaty. Merely removing barriers to the saving, exchange or selling of seeds will not suffice: for farmers' rights to be truly realized, Governments should accept that they have duties to support farmers' seed systems, as described below.

2. From direct and bilateral benefit-sharing to indirect and multilateral support for agrobiodiversity maintenance

45. The protection against the misappropriation of genetic resources should not result in new enclosures preventing access to genetic resources as a common heritage: the sharing of genetic resources not only promotes diversity, it also can contribute to food security by allowing research on new varieties to make progress, a process of sharing of, and improvement on, genetic resources in which farmers should be actively involved.

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[25] See Mata et al., "Integrating gender equality and equity in access and benefit-sharing governance through a rights-based approach", in Campese et al. (eds.), Rights-based approaches. *Exploring issues and opportunities for conservation*, Centre for International Forestry Research and International Union for Conservation of Nature and Natural Resources, 2009, pp. 251-268.

[26] See Regine Andersen, *Governing Agrobiodiversity: Plant Genetics and Developing Countries* (Aldershot, United Kingdom: Ashgate, 2008).

46. This is something that countries should take into account in their implementation of the Convention on Biological Diversity, keeping in mind that the Convention may not be appropriate for the management of plant genetic resources for food and agriculture — something which States recognized when they adopted the International Treaty, although crops not listed in annex I to the Treaty still remain within the framework of the Convention. But it is also relevant for the implementation of farmers' rights under the Treaty. Although article 9 (2) (b) of the Treaty concerns the right to participate equitably in the sharing of benefits arising from the utilization of plant genetic resources for food and agriculture, such benefits should not only accrue to those few farmers who happen to have plant varieties that are utilized by commercial breeding companies: in recognition of the fact that genetic resources constitute a common heritage which generations of farmers across the globe have contributed to, they should be shared with farmers in all countries engaged in the conservation and sustainable use of agrobiodiversity.

47. Such an approach has been followed by FAO since the adoption by the FAO Conference, on 29 November 1989 of resolution 5/89 on farmers' rights. It differs from the approach to benefit-sharing under the Convention on Biological Diversity, which is instead "bilateral and direct" in so far as "benefits are to be shared between purported 'owners' and buyers of the resources".[27] But benefit-sharing as conceived under the Convention has failed: in spite of the existence of a number of laws in developing countries which foresee forms of direct benefit-sharing between the "owners" and "buyers" of genetic resources, often upon prior informed consent on mutually agreed terms, as set out in the Convention, "so far there have been no examples of direct benefit-sharing between providers and recipients of plant genetic resources for food and agriculture resulting from such legislation".[27] In addition, since the demand for farmers' varieties among commercial breeders remains limited, so would the number of beneficiaries among farmers: the vast majority of farmers would remain uncompensated for their contribution to the maintenance and improvement of the common pool of genetic resources. And a system of direct benefit-sharing between "suppliers" owning the resources and "buyers" commercializing them could also be a disincentive to share seeds and propagate material among farmers.

3. Supporting farmers' varieties and associated knowledge

48. Rather than preventing access to traditional varieties and associated knowledge by creating a new system of enclosures, what is required is proactive support for their development. In order to encourage farmers who conserve and sustainably use plant genetic resources for food and agriculture, extension services could be provided to them specifically, and other incentives could be put in place, such as to facilitate the marketing of their produce or provide them easier access to credit. In the absence of proactive policies aimed at preserving and encouraging the development of farmers' seed systems and associated traditional knowledge and practices, such systems risk disappearing, as a result of three kinds of pressures. First, seed regulations (national seed certification schemes) may only catalogue commercial varieties which are PVP protected (since only these present the stability and uniformity required for cataloguing), and either explicitly exclude the trade of

[27] Information Paper on Farmers' Rights submitted by the Fridtjof Nansen Institute to the secretariat of the Plant Treaty, 20 May 2009, para. 2.2.

non-PVP-protected seeds or lead to de facto exclusion of traditional varieties, since the latter are normally not genetically homogeneous enough to meet the requirements for approval and certification. Second, government-sponsored programmes seeking to improve access to seeds may promote certain types of seeds only, such as hybrids, although they may often require to be combined with the use of expensive inputs, which may be unsustainable for cash-strapped farmers, and may not be best suited to local agronomic conditions. Third, the buyers of crops, particularly for the export sector, may require that their suppliers use certain seeds which guarantee uniformity and stability, at the expense of diversity and variability, leading to progressive genetic erosion.

49. A number of measures could be adopted by States in order to ensure that traditional knowledge is kept alive and can further develop among farmers. The reform of seed regulations is one possibility. Traditional varieties and associated knowledge could be documented in catalogues and gene banks, and farmers contributing to these banks could be compensated. In India, chapter VI of the 2001 Protection of Plant Varieties and Farmers' Rights Act points to this direction. In Senegal, peasant-farmers hold community registers of peasant varieties since 2003, so they can be circulated and disseminated more easily. International support for such programmes should be expanded in the future.

50. Local seed exchanges are an important component of seed supply and diffusion in regions where the seeds of traditional varieties are not available on the markets. Their development could be scaled up, by the support of community seed banks and seed fairs. Seed fairs bring together local farmers who have surplus seed of traditional food crops to sell or trade with other farmers looking for such seed. The poorest seedless farmers receive vouchers from the government, which can be exchanged for seed at the fair. This allows the farmers to select and buy their preferred seed varieties. Community seed banks pool the seed material from member farmers. Appropriate institutional arrangements should ensure the availability of planting material at the appropriate time as well as an adequate diversity of varieties. Such community seed banks exist in countries such as the Philippines or India and frequently emanate from grass-roots organizations. In Mali, some seed banks contain more than 350 samples of 70 different species.

51. These systems could be helped to prosper for a larger contribution to food security. Incentives for the use of food products that emanate from these systems in processing and marketing, or through public procurements schemes, are the next steps forward in maintaining and enhancing agrobiodiversity. They would bring much-needed additional incomes to vulnerable groups.

C. Bridging the systems

52. States face the distinct challenge of having to organize the coexistence between a commercial seeds system, which is growing in importance, and the farmers' seed systems, which must be supported and are a vital source of innovation from which all benefit. This challenge can be met by actively involving farmers in the design and implementation of seed policies, and by putting science at the service of farmers.

1. Participatory rights of farmers

53. The right to participate in decisions is an important human right, most explicitly mentioned in article 25 of the International Covenant on Civil and Political Rights (see also E/C.12/1999/5, in the context of the right to food). Among the elements of farmers' rights as defined in the International Treaty on Plant Genetic Resources for Food and Agriculture is "the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture" (article 9 (2) (c)). Farmers should be actively involved in the design of legislation covering the certification and trade of seeds or the conservation of plant genetic resources, as well as of plant variety protection laws and laws regarding patents. Combined with adequate capacity-building, this active participation should also be ensured for legislation or policies relating to the rest of agriculture (as opposed to the stewardship of plant genetic resources), since choices made in that area can significantly alter the structure of incentives for farmers who conserve genetic resources.

2. Putting science at the service of farmers

54. While a tension exists between the strengthening of intellectual property rights and farmers' rights, it is at the same time important to identify the considerable contributions that scientific research can make to improve the livelihoods of the most marginalized farmers. Participatory plant breeding, as for instance in Nepal, exemplifies the potential complementarities between the most advanced science and the needs of local communities. Participatory plant breeding intends to answer the needs of small farmers living in poor and marginal areas for which conventional breeding has offered few suitable varieties. In participatory plant breeding, farmers are treated as partners by researchers who work directly with them, often combining traditional seeds with modern varieties, and most of the testing takes place on the farm. This should ensure that the research undertaken is relevant to the farmers' needs and that, since local varieties are used, the varieties resulting from participatory plant breeding will be suited to the local environment. It also is empowering, particularly for poor rural women who often preserve the best seed for planting and therefore play a key role in managing plant genetic resources. Participatory plant breeding programmes already exist in the Syrian Arab Republic, Egypt, Eritrea, Mali, Nepal, Yemen, Nicaragua and Honduras.

55. Participatory plant breeding programmes can start in Farmer Field Schools, which aim to make farmers experts in their own fields. Originally introduced as part of the integrated pest management approach that emerged in the 1980s as a reaction to the environmental and social consequences of the green revolution model, Farmer Field Schools enable farmers to reduce their use of pesticides and rely instead on endogenous skills, knowledge and resources. Indeed, varieties are only one element in productive farming systems. Better soil management techniques, composting, water management, and agronomic practices may have an equal or greater impact upon productivity than the variety itself.

IV. Conclusions and recommendations

56. **States should promote innovation in both the commercial seed system and in farmers' seed systems, ensuring that innovation in both systems works for**

the benefit of the poorest and most marginalized farmers, particularly in the developing countries. Only by managing the coexistence of these systems can we hope to arrive at a system which adequately balances the needs for innovation, for the preservation and enhancement of crop diversity, and for improving the livelihoods of small-scale farmers in developing countries, who overwhelmingly still rely on seeds which they save from their own crops and which they donate, exchange or sell, often informally. The linear idea of progress favouring the replacement by high-yielding varieties of traditional crop varieties in the most productive areas embodies a vision of food security as primarily a problem of production. But, while ensuring adequate production levels will remain a challenge, particularly in the context of competing claims on land and of climate change, violations of the right to food stem today, for the most part, from lack of accessibility and insufficient incomes for the poorest, including smallholders. In addition, guaranteeing food security in the future requires that we protect crop genetic diversity, including agrobiodiversity. Our paradigm of agricultural development must therefore be redefined. This redefinition must be guided by the normative requirements of the right to adequate food.

57. In order to ensure that the development of the intellectual property rights regime and the implementation of seed policies at the national level are compatible with and conducive to the realization of the right to adequate food, the Special Rapporteur recommends that:

(a) All States should:

- Make swift progress towards the implementation of farmers' rights, as defined in article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture and consider expanding the list of crops subject to the Multilateral System of Access and Benefit-Sharing (MLS), contained in annex I to the Treaty, in order to encourage the shift from direct and bilateral benefit-sharing as envisaged in the Convention on Biological Diversity to indirect and multilateral support for agrobiodiversity enhancement. States not yet parties to the International Treaty should consider joining it;

- Consider using antitrust legislation in order to combat excessive concentration in the input providers' market, which entails the risk of abuse of dominant position by the seed companies concerned and the setting of prices at levels which may be unjustifiably high and unaffordable for poor farmers;

- In case they have not implemented the TRIPS Agreement yet, prepare right-to-food impact assessments prior to doing so, in order to ensure that the regime of intellectual property rights' protection which will be chosen will correspond to their development needs and will not result in depriving smallholders from access to their productive resources;

- Ensure that protection of patent-holders or plant breeders' rights does not discourage innovation in the name of rewarding it, by introducing barriers to the use of patented material. In particular, States should not allow patents on plants and should establish research exemptions in legislation protecting plant breeders' rights. If States do allow patents on

plants, they should establish research exemptions based on article 30 of the TRIPS Agreement;

- Ensure an efficient diffusion of improved commercial varieties which can truly benefit poor farmers through adequate information on the characteristics of such varieties;

- Seek to overcome the problems of delayed or blocked access to needed research tools and plant material, and encourage innovative mechanisms such as patent pools, clearing houses and open source experiments in order to overcome barriers to research on patented material, particularly where multiple patents exist on a single plant variety. States may wish to resort to compulsory licensing or the use of eminent domain doctrines where patents create obstacles to the development of varieties that can contribute to food security;

- Ensure that their seed regulations (seed certification schemes) and their programmes to support access to seeds do not lead to an exclusion of farmers' varieties. Instead, the development of such varieties should be encouraged by including efficient traditional seed varieties in government-approved seed lists as well as subsidized seed distribution programmes, as well as by participatory plant breeding and farmer field schools;

- Support and scale up local seed exchange systems such as community seed banks and seed fairs, and community registers of peasant varieties, and use them as a tool to improve the situation of the most vulnerable groups, i.e., through the granting to the poorest seedless farmers of seed vouchers which can be exchanged for seed at the fair. States should develop incentives for the wider use of food products made out of farmers' varieties in processing and marketing, or through public procurements schemes as in school-feeding programmes;

- Put in place mechanisms ensuring the active participation of farmers in decisions related to the conservation and sustainable use of plant genetic resources for food and agriculture, particularly in the design of legislation covering the certification and trade of seeds or the protection of plant varieties, so as to strike the right balance between the development of commercial and farmers' seed systems;

- Increase the resources allocated to public agricultural research and create new incentives for the private sector, in order to encourage research into the crops that benefit poor farmers in developing countries;

(b) Donors and international institutions, including the Consultative Group on International Agricultural Research and FAO, should assist States in implementing the above recommendations. They should, in particular:

- Support efforts by developing countries to establish a regime for the protection of intellectual property rights which suits their development needs and is based on human rights: (i) by refraining from imposing on these countries the condition that they go beyond the minimum requirements of the TRIPS Agreement, particularly by the insertion of "TRIPS-plus" provisions in free trade agreements; (ii) by encouraging the provision of technical advice to developing countries that facilitates the

adoption of sui generis systems for the protection of plant varieties, including by UPOV and WIPO, consistent with the status of WIPO as a specialized agency of the United Nations system and with its Development Agenda, which impose a duty on WIPO to mainstream human rights into its activities and to enhance the development dimension of its activities; and (iii) by prohibiting the use of contractual clauses (technology use agreements) or genetic use restriction technologies (GURTs) in genetically modified seeds by seed suppliers, whenever they rely on such clauses or technology in order to strengthen the protection of their privileges beyond the balance adopted by the legislator between the interest of suppliers and broader social goals;

- **Fund breeding projects on a large diversity of crops, including orphan crops, as well as on varieties for complex agroenvironments such as dry regions and not only in breadbasket regions, in order to address the needs of the most vulnerable groups;**

- **Put farmers at the centre of research through participatory research schemes such as participatory plant breeding;**

- **Channel an adequate proportion of funds towards research programmes and projects that aim at improving the whole agricultural system and not only the plant (agroforestry, better soil management techniques, composting, water management, good agronomic practices), as well as towards institutional innovations (such as community seed banks, seed fairs and farmer field schools).**

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International Convention for the Protection of All Persons from Enforced Disappearance

Report of the Secretary-General

Summary

In its resolution 63/186 on the International Convention for the Protection of All Persons from Enforced Disappearance, the General Assembly called upon States which had not yet done so to consider signing and ratifying the Convention as a matter of priority, as well as to consider the option provided for in articles 31 and 32 of the Convention regarding the Committee on Enforced Disappearances. It also requested the Secretary-General and the United Nations High Commissioner for Human Rights to intensify efforts to assist States to become parties to the Convention and requested United Nations agencies and organizations to continue undertaking efforts to disseminate information on the Convention, to promote understanding of it, to prepare for its entry into force and to assist States parties in implementing their obligations under the instrument. In resolution 63/186, the Assembly also requested the Secretary-General to submit to it, at its sixty-fourth session, a report on the status of the Convention and the implementation of the resolution. The present report is submitted in accordance with that request.

In a note verbale dated 8 May 2009, the Secretariat invited Governments to transmit any information pertaining to the implementation of resolution 63/186. Replies have been received from the Governments of Argentina, Austria, Costa Rica, Greece, Guatemala, Iraq, Kazakhstan, Lebanon, Madagascar, Monaco, the Netherlands, Paraguay, Qatar, Slovenia, Switzerland and Ukraine. The responses of those Governments are summarized in the present report.

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The present report also includes information on the activities of the Office of the United Nations High Commissioner for Human Rights and the Working Group on Enforced or Involuntary Disappearances in relation to the dissemination and promotion of the International Convention for the Protection of All Persons from Enforced Disappearance.

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I. Introduction

1. In resolution 63/186, entitled "International Convention for the Protection of All Persons from Enforced Disappearance", the General Assembly underlined its concern about the increase in enforced or involuntary disappearances in various regions of the world, including arrest, detention and abduction, when these are part of or amount to enforced disappearances, and by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared.

2. In the resolution, the General Assembly welcomed the adoption on 20 December 2006 of the International Convention for the Protection of All Persons from Enforced Disappearance, and looked forward to its entry into force at an early date. The Assembly called upon States which had not yet done so to consider signing and ratifying the Convention as a matter of priority, as well as to consider the option provided for in articles 31 and 32 of the Convention regarding the Committee on Enforced Disappearances.

3. In the same resolution, the General Assembly requested the Secretary-General and the United Nations High Commissioner for Human Rights to intensify efforts to assist States to become parties to the Convention, with a view to achieving universal adherence.

4. The General Assembly also requested United Nations agencies and organizations and invited intergovernmental and non-governmental organizations and the Working Group on Enforced or Involuntary Disappearances, to continue undertaking efforts to disseminate information on the Convention, to promote understanding of it, to prepare for its entry into force and to assist States parties in implementing their obligations under the instrument.

5. In a note verbale dated 8 May 2009, the Secretariat invited Governments to transmit relevant information pertaining to the implementation of the resolution. Replies were received from the Governments of: Argentina, Austria, Costa Rica, Greece, Guatemala, Iraq, Kazakhstan, Lebanon, Madagascar, Monaco, the Netherlands, Paraguay, Qatar, Slovenia, Switzerland and Ukraine. The responses of those Governments are summarized in the present report.

II. Adoption and status of ratifications of the International Convention for the Protection of All Persons from Enforced Disappearance

6. On 29 June 2006, in resolution 1/1, the Human Rights Council adopted the International Convention for the Protection of All Persons from Enforced Disappearance, as annexed to the resolution. In the resolution, the Council also recommended the General Assembly to adopt the International Convention.

7. By resolution 61/177, the General Assembly adopted and opened for signature, ratification and accession the International Convention for the Protection of All Persons from Enforced Disappearance. The Convention will enter into force after the deposit of the twentieth instrument of ratification or accession (article 39, para. 1). As of 24 July 2009, 81 States have signed and 12 have ratified the Convention; 4 States have also recognized the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf

of individuals subject to its jurisdiction claiming to be victims of a violation by the State party of provisions of the Convention (article 31) and to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under the Convention (article 32).

III. Replies received from Governments

Argentina

[Original: Spanish]
[24 June 2009]

According to the information received from the Government, Argentina was the first country to sign — and the second to ratify — the International Convention for the Protection of All Persons from Enforced Disappearance, and it has recognized the competence of the Committee on Enforced Disappearances provided for in articles 31 and 32 of the Convention. It should be noted that the Senate is currently debating a bill which would give precedence to the Convention over domestic law.

When ratifying the Convention, in February 2007, Argentina undertook to lead a campaign to promote it with a view to ensuring that it came into force swiftly. This was because Argentina considered that the Convention was not simply another instrument but a major step forward in the fight to counter impunity and to promote and protect human rights.

In this area it should be noted that:

(a) In May 2008, the Permanent Mission of Argentina to the United Nations organized an event with a view to promoting ratification of the Convention. The event was a round-table meeting at which experts on the subject, representatives of the State and representatives of non-governmental organizations with experience in this area spoke about the issue of enforced disappearance and about the importance of having a binding international instrument on the subject.

(b) In addition, in the General Assembly, Argentina drew up and negotiated a draft resolution designed to promote the ratification and entry into force of the Convention (General Assembly resolution 63/186).

(c) It is the policy of the Foreign Ministry's Directorate General for Human Rights to include a discussion of the contents of the Convention on the agenda of the various bilateral meetings, with a view to promoting its ratification and entry into force.

Austria

[Original: English]
[26 June 2009]

According to the information received from the Government, Austria signed the International Convention for the Protection of All Persons from Enforced Disappearance on 6 February 2007. Currently, the Ministry of Justice is in the process of analysing the need for potentially necessary amendments of domestic laws in order to ratify the Convention.

Costa Rica

[Original: Spanish]
[24 June 2009]

According to the information provided by the Government, Costa Rica signed the International Convention for the Protection of All Persons from Enforced Disappearance on 6 February 2007 because of its deep-seated commitment to human rights and its rejection of the many violations of such rights which the practice of enforced disappearance involves, whatever the area or circumstances.

Although it has yet to complete the ratification process, Costa Rica reiterates that it is very interested in finalizing the process as soon as possible so that we can help bring the Convention into force promptly.

Accordingly, the Convention ranks high on the list of international conventions awaiting ratification and we therefore hope that our Legislative Assembly will move ahead quickly in the next few months to endorse it.

At the same time, Costa Rica is continuing to speak out in the international community in favour of effective protection against enforced disappearance and in favour of the signing, ratification and coming into effect of the Convention.

Accordingly, during the recent meetings of the Human Rights Council, Costa Rica co-sponsored resolutions on the Convention and, at the recent sessions of the General Assembly of the Organization of American States, it successfully put forward resolutions on international humanitarian law which called on the countries of the region to adhere to the Convention and other international instruments.

Likewise, it has participated in international and regional conferences on related issues and has stated Costa Rica's position on the issue. All this follows up on the enthusiastic support that the Costa Rican Government has provided from the very beginning to the work on the negotiation and adoption of the Convention, both in Geneva and in New York.

In any event, it is important to note that Costa Rica currently has a policy framework that guarantees full respect for human rights and protection of integrity of the person, human dignity, liberty and life, all of which are particularly at risk in cases of enforced disappearance.

There is no doubt that, once our country ratifies the Convention and the latter enters into effect for all States parties, this policy framework will be greatly strengthened and enhanced; this will, moreover, mark a further significant step towards the eradication of enforced disappearance and the use of that tactic to the irreparable detriment of the fundamental rights of the individual.

Costa Rica wishes to reiterate again, its firm commitment to the Convention as an instrument of indisputable importance; it will continue to support the latter unreservedly during the current ratification and coming into force stage and during the subsequent implementation.

Greece

[Original: English]
[16 June 2009]

The information provided states that Greece has signed the International Convention for the Protection of All Persons from Enforced Disappearance and has been taking all preparatory measures to start the procedure for its ratification.

Guatemala

[Original: Spanish]
[5 July 2009]

In accordance with the information received from the Government of Guatemala, the Presidential Commission for Coordinating Executive Policy in the field of Human Rights has drawn up a draft legislative agenda with a view to boosting legislative initiatives and amendments to give effect to the commitments assumed in ratifying international human rights instruments.

In November 2007, the Ministry of Foreign Affairs carried out the necessary consultations with the various Governmental and independent institutions to underscore the importance of ratifying the International Convention; based on that it issued the official opinion that was sent to Congress; that opinion has not been considered as yet.

One of the main priorities on the legislative agenda drawn up by the Presidential Commission, is the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance; accordingly, lobbying meetings have been initiated with the various Congressional committees with a view to achieving prompt ratification of the Convention.

Iraq

[Original: Arabic]
[25 June 2009]

Information received from the Government of Iraq states that any act of enforced disappearance is an offence against human dignity and a grave violation of human rights and fundamental freedoms, including: the right to security of person and personal dignity; the right not to be subjected to torture or other forms of cruel treatment or punishment; the right to humane conditions of detention; the right to recognition as a person before the law; the right to a fair trial; and the right to family life since enforced disappearance affects not only the person who disappears but also family members. The practice of enforced disappearance remains a grave problem that threatens social peace, security and stability. Thus, international efforts must be intensified to curb this phenomenon and to assist States in acceding to the Convention.

The crime of enforced disappearance was the most heinous crime to be experienced by Iraqis when the former regime was in power. People were abducted for political, sectarian or ethnic reasons and their relatives were faced with denials

when they tried to find out what had happened to them. The former regime violated all domestic and international laws and treaties that recognize the human right to life, liberty and security of person and to a fair trial. Mass graves most vividly illustrate how the practice of enforced disappearance was used against Iraqis. There were some cases of enforced disappearance after 2003 and the guilty parties were terrorists and outlawed groups that exploited the deteriorating security situation in Iraq at the time. Following its establishment, the Government of Iraq played an important and responsible role in restoring security and stability across the nation, providing training for security services personnel and removing many undesirable elements from the security forces. The establishment of law and order was a key to securing the arrests of many persons involved in abductions, and the Iraqi Parliament adopted a law on accession to the International Convention for the Protection of All Persons from Enforced Disappearance in May 2009 and took the appropriate legislative steps to complete the accession process.

Kazakhstan

[Original: Russian]
[24 June 2009]

According to the information provided by the Government of Kazakhstan, the Ministry of Internal Affairs is taking the necessary steps to prevent and eradicate crimes involving the enforced disappearance of citizens.

In the first five months of 2009, 32 cases of kidnapping (51 in 2008) and 38 cases involving enforced disappearance (41 in 2008) were recorded in the territory of the Republic of Kazakhstan.

Our experience shows that people are generally kidnapped by criminal organizations. In this connection, we have taken aggressive steps resulting in the prosecution of a number of the organizers of these crimes and of active participants in them.

The Ministry devotes special attention to the prevention and eradication of crimes against minors.

Work on ensuring that citizens are protected from enforced disappearance is being carried out constantly and is under the supervision of the Ministry of Internal Affairs.

Lebanon

[Original: Arabic]
[1 July 2009]

The information received from the Government of Lebanon states that the General Directorate for General Security implements the general policies relating to enforced disappearance that are put in place by competent authorities. It also gathers information on behalf of these authorities.

Madagascar

[Original: French]
[8 June 2009]

The Government of Madagascar reports that the National Commission for International Humanitarian Law, which includes representatives from the Ministry of National Defence, the Ministry of Foreign Affairs and the Ministry of Justice, as well as other ministerial departments concerned, plans to begin the process for the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance this year.

Monaco

[Original: French]
[29 June 2009]

According to information received from the Government of Monaco, the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance is currently being considered by the Government of the Principality.

Netherlands

[Original: English]
[10 June 2009]

The Government of the Netherlands informed that it is currently in the process of general approval of the International Convention for the Protection of All Persons from Enforced Disappearance and expects it to be presented to the Parliament for approval shortly after the second quarter of 2009.

On 3 July 2009, the Convention will be on the agenda of the meeting of the Dutch Cabinet of Ministers, after which it will be sent to the Council of State for advice. After the recess scheduled for the second quarter of 2009, the Convention will be presented to the Parliament for approval.

Paraguay

[Original: Spanish]
[19 June 2009]

According to the information provided, the Government of the Republic of Paraguay signed the International Convention for the Protection of All Persons from Enforced Disappearance on 6 February 2007. The latter is currently in the process of being endorsed by the legislature in accordance with the constitutional requirements for entry into force of international treaties.

Qatar

[Original: Arabic]
[16 July 2009]

1. According to the information received from the Government of Qatar, the Human Rights Department and the pertinent departments in the Ministry of the Interior have adopted a standard procedure that is characterized by transparency and credibility in dealing with the United Nations human rights monitoring mechanism, and provides it with all the necessary facilities, commensurate with the link of the issue to the status of human rights in spheres related to the work of the Ministry, regardless of whether the issue concerns international human rights instruments that have been ratified by the State or those that have not, which is the case with regard to the International Convention for the Protection of All Persons from Enforced Disappearance.

2. The annual reports issued by the Qatar National Human Rights Committee since its establishment in 2002 have made it clear that no cases of enforced disappearance have been recorded in Qatar.

3. Qatar has in that manner responded practically to the obligation to cooperate with the Committee on Enforced Disappearances that is mentioned in articles 32 and 33 of the Convention. The question of Qatar recognizing the competence of the Committee as set out in article 32 of the Convention first requires the State to either ratify or accede to the Convention, neither of which it has yet done.

4. We should like to note that we have no objection to acceding to this Convention, but in the light of the information set forth above, when we do, it will be in order to demonstrate our commitment to its provisions, rather than because it is a necessity.

Slovenia

[Original: English]
[11 June 2009]

According to the information received from the Government, the Republic of Slovenia has signed the International Convention for the Protection of All Persons from Enforced Disappearance on 26 September 2007.

The Government of the Republic of Slovenia is currently in the process of examining the compatibility of the Convention with its national legislation. Before the ratification of the Convention a revision of the existing national legislation will probably be necessary.

Switzerland

[Original: French]
[19 June 2009]

According to the information provided by the Swiss Government, the Swiss Federal Council has always supported the Convention, which it considers to be essential for safeguarding the people concerned and for strengthening international human rights law. However, before the instrument can be signed, according to national procedure the text must be submitted to the cantons for their views, since, once ratified, the Convention will have a direct impact on them.

Ukraine

[Original: Russian]
[25 June 2009]

The Government of Ukraine informed that searches are among the most important aspects of the work of law enforcement agencies in fighting crime. Every case of a missing person is treated as an emergency. Accordingly, the machinery of the Ministry of Internal Affairs works constantly to improve its searches for missing persons, including children, in accordance with presidential decree No. 20 of 18 January 2001 on additional measures to prevent the disappearance of people, to improve coordination of tracing activities of law enforcement bodies.

Under this decree, the unit responsible for search operations has been reorganized and reinforced. A missing persons bureau comprising 20 officers has been established in the Criminal Investigations Department, including a section with functional duties. There are search divisions in the provincial bodies and in the city and district line agencies of the Ministry of Internal Affairs.

Searches for missing persons are carried out in strict accordance with the law, as they involve the rights and interests of citizens. The legal basis of the Ministry's search operations is found in the Constitution of Ukraine, the Code of Criminal Procedure, the Police Act, the Investigation and Search Operations Act and the aforementioned presidential decree No. 20 of 18 January 2001.

Furthermore, round-the-clock call centres have been established in the criminal investigation bureaux of the Autonomous Republic of the Crimea, the city of Kyiv and every provincial capital to respond quickly to reports of disappearances. They are mainly responsible for obtaining, compiling, analysing and transmitting information to the legal and natural persons concerned about citizens of Ukraine reported missing following an accident, or who have been detained abroad or have died suddenly, and about the discovery of unidentified corpses or persons moved to medical facilities who cannot provide any information about themselves.

Moreover, in accordance with decree No. 38 of the Ministry of Internal Affairs of 16 January 2004, separate divisions for organizing searches for missing children have been established in the criminal police units responsible for children.

Statements or information concerning missing persons are handled by the agencies of the Ministry on the day such reports are received from the public. These statements are immediately registered by the city and district police stations in the

logbook. A search team is dispatched to inspect the last known whereabouts of the missing person. The inspection is carried out for the purpose of obtaining clues and material evidence and identifying circumstances that may indicate if the missing person has been the victim of a crime, and to help locate his or her whereabouts or identify a corpse.

Within 24 hours of a statement having been taken, a police officer enters the information about the disappearance into the "Armor" search database, which is used by all the divisions of the law enforcement agencies in Ukraine. This makes it possible to verify which persons have been detained for administrative or criminal offences, or are wanted persons, anywhere in the country. In every case of a missing person, the law enforcement agencies launch an investigation and take steps to establish the whereabouts of the person concerned, within 10 days of being notified of the disappearance. Where a child or a person travelling by road has disappeared, the investigation is launched within 24 hours.

Cases of missing persons are considered in the light of possible reasons for the disappearance, namely:

(a) Incidents of a criminal nature, including murder, hit-and-run accidents resulting in a death where the culprit takes steps to remove evidence of the crime; abduction; unlawful deprivation of freedom;

(b) The non-violent death of the missing person, such as by suicide, natural death from old age or illness, sudden death and death caused by an accident. The search for missing persons in such cases entails establishing the identity of a corpse;

(c) Searches not involving a death: a person who is hospitalized in an unconscious state and without identity documents and cannot, because of a mental or other condition, give information about himself or herself; detention or arrest for a criminal offence or an infraction.

A disappearance may also be brought about by social and economic factors, or by migration. It is no secret that some of the missing persons are citizens who have gone abroad to find work because of their vulnerable social position, and may be residing in countries of the Commonwealth of Independent States without having told relatives where they are.

IV. Activities of the Office of the United Nations High Commissioner for Human Rights

8. On 6 February 2007, the High Commissioner for Human Rights attended the ceremony of the opening for signature of the International Convention for the Protection of All Persons from Enforced Disappearance and issued a public statement highlighting some of the most important aspects of the instrument and expressing that early signature and ratification of the Convention would mark a strong step in the promotion of human security.

9. On 18 April 2007, the United Nations High Commissioner for Human Rights issued a statement to the Parliamentary Assembly of the Council of Europe, in which she encouraged all States represented there to ratify, inter alia, the Convention as a sign of firm commitment to effective protection around the world.

10. On 22 May 2008, the United Nations High Commissioner for Human Rights issued a statement during an event held in New York on the promotion of the ratification of the Convention. At the occasion, she called on Member States to ratify the Convention and to ensure that it was promptly implemented in order to clarify the case of abductees, bring perpetrators to justice, provide reparations to victims and ultimately set the historical records straight by avoiding using amnesties for perpetrators of crimes of disappearance in exchange for guarantees of peace.

11. On 3 June 2008, on the occasion of the eighth session of the Human Rights Council, the United Nations High Commissioner for Human Rights issued a statement calling upon States to ratify the Convention.

12. On 22 September 2008, the Deputy High Commissioner for Human Rights participated in an event held in Geneva on missing persons. At the occasion, she called on all States to honour the sixtieth anniversary of the Universal Declaration of Human Rights by ratifying the core human rights treaties, including the Convention on the Protection of All Persons from Enforced Disappearance. She stressed that the adoption of the Convention would be a great step forward in the fight against impunity and that, among other things, would provide for special measures that States parties should adopt in order to prevent disappearances and address related issues.

13. In 2007, the Office of the United Nations High Commissioner for Human Rights issued a publication entitled *The New Core International Human Rights Treaties* reproducing the text of the Convention on the Rights of Persons with Disabilities and its Optional Protocol and of the International Convention for the Protection of All Persons from Enforced Disappearance. The publication is available in the six working languages of the United Nations in printed form and on the website of the Office of the United Nations High Commissioner for Human Rights.

14. The Office of the United Nations High Commissioner for Human Rights has also undertaken the third revision of its fact-sheet No. 6 on enforced or involuntary disappearances. The new version devotes a section to the International Convention for the Protection of All Persons from Enforced Disappearance and another to exploring the future relationship between the proposed Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances. It also reproduces the text of the Convention in its entirety. The advanced version of the fact-sheet is already available in English on the website of the Office of the United Nations High Commissioner for Human Rights and it is being translated into the official languages of the United Nations. Its printed form will be available in October 2009.

15. The Office of the United Nations High Commissioner for Human Rights also provides updated information on the status of ratification of the Convention on its website, under the heading "International law", and under the section devoted to the Working Group on Enforced or Involuntary Disappearances.

16. In its 2009 report on the follow-up to the World Conference on Human Rights submitted to the Human Rights Council (A/HRC/10/31), the United Nations High Commissioner for Human Rights stated that her office had strongly encouraged the ratification of the Convention.

V. Activities of the Working Group on Enforced or Involuntary Disappearances

17. Established by resolution 20 (XXXVI) of the Commission on Human Rights and renewed by the Human Rights Council in its resolution 7/12 of 27 March 2008, the Working Group on Enforced or Involuntary Disappearances was the first United Nations human rights thematic mechanism to be established with a global mandate. Since its inception, the Working Group has transmitted more than 52,000 individual cases to Governments in more than 90 countries. The number of cases under active consideration that have not yet been clarified, closed or discontinued stands at 42,393 and concerns 79 States. The Working Group has been able to clarify 1,763 cases over the past five years.

18. The Working Group on Enforced or Involuntary Disappearances participated in all the meetings of the intersessional working group that drafted the Convention.

19. The Working Group issued statements on 31 March, 28 June and 3 November 2006 calling for the adoption of the draft Convention.

20. In May 2007, the Chairperson-Rapporteur of the Working Group, Santiago Corcuera, participated in a workshop held in Paris on the Convention.

21. On 10 March 2008, Mr. Corcuera addressed the Human Rights Council in the framework of the presentation of the 2007 annual report and, on behalf of the Working Group, welcomed the adoption of the Convention and invited all States to ratify it.

22. On 22 May 2008, Mr. Corcuera participated in a panel discussion on the Convention co-sponsored by the Permanent Mission of Argentina to the United Nations and the Office of the United Nations High Commissioner for Human Rights.

23. On 29 August 2008, the Working Group issued a public statement on the occasion of the International Day of the Disappeared, in which it called upon all Governments to ratify the Convention. It further affirmed that the entry into force of the Convention would help strengthen the capacities of the Government of Argentina to prevent and eradicate disappearances and enable victims to obtain their rights to justice and truth.

24. In its annual report to the Human Rights Council (A/HRC/10/9), the Working Group noted with satisfaction that more countries had signed and ratified the Convention. It also expressed its commitment to cooperate with the Committee on Enforced Disappearances upon its establishment and its belief that the Committee would complement its work in preventing enforced disappearances. Furthermore, the Working Group continued to remind Governments of the importance of ratifying the Convention and called on countries that had not signed and/or ratified the Convention to do so and to accept the competence of the Committee to receive and consider individual and inter-State communications (articles 31 and 32 of the Convention).

25. On 5 February 2009, the secretariat of the Working Group participated in a conference on the Convention, organized by the Colegio de España, the Maison de l'Argentine and the Maison de l'Italie, held at the Cité internationale universitaire in Paris.

26. On 26 and 27 February 2009, a member of the Working Group participated in a meeting on the theme "Governance: individual rights, economic development and social progress", organized by the Amadeus Institute in Marrakech, Morocco. As a result, a call for the ratification of the Convention is included in the final commitment, the "Marrakech engagement".

27. Every opportunity is used by the members of the Working Group to promote the ratification of the Convention, including during visits undertaken to different countries and during bilateral meetings held with representatives of Governments.

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Promotion and protection of the rights of children

Status of the Convention on the Rights of the Child

Report of the Secretary-General

Summary

The General Assembly, by its resolution 44/25, adopted the Convention on the Rights of the Child. The Convention was opened for signature in New York on 26 January 1990 and entered into force on 2 September 1990, the thirtieth day after the deposit with the Secretary-General of the twentieth instrument of ratification or accession. As at 1 July 2009, the Convention had been ratified or acceded to by 193 States.

By its resolution 54/263, the General Assembly adopted two Optional Protocols to the Convention. As at 1 July 2009, the Optional Protocol on the involvement of children in armed conflict, which entered into force on 12 February 2002, had been ratified by 128 States and the Optional Protocol on the sale of children, child prostitution and child pornography, which entered into force on 18 January 2002, had been ratified by 131 States.

Pursuant to resolution 63/241, international efforts and national progress in tackling child labour and efforts to eliminate the worst forms of child labour by 2016 are outlined in section IV of the present report, highlighting the important role of education in this regard.

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I. Introduction

1. In its resolution 63/241, the General Assembly requested the Secretary-General to submit to it at its sixty-fourth session a report containing information on the status of the Convention on the Rights of the Child, with a focus on international efforts and national progress in tackling child labour and progress towards meeting the target of eliminating the worst forms of child labour by 2016. The present report is submitted in accordance with that request.

II. Status of the Convention on the Rights of the Child

2. As at 1 July 2009, the Convention on the Rights of the Child[1] had been ratified or acceded to by 193 States and two States had signed the Convention.[2]

3. As at 1 July 2009, the Optional Protocol on the involvement of children in armed conflict had been ratified by 128 States, and the Optional Protocol on the sale of children, child prostitution and child pornography had been ratified by 131 States.[2]

III. Implementation of the Convention on the Rights of the Child

4. During the reporting period, the Committee on the Rights of the Child held its forty-ninth to fifty-first sessions at the United Nations Office at Geneva, from 15 September to 3 October 2008, from 12 to 30 January 2009 and from 22 May to 12 June 2009, respectively.

5. The Chairperson of the Committee will present her oral report to the General Assembly at its sixty-fourth session, addressing major issues related to the work of the Committee which have occurred during the past year. The Chairperson will also provide information on the reduction of the backlog during 2010, when the Committee will be meeting in two parallel chambers pursuant to resolution 63/244.

6. In conformity with rule 75 of its provisional rules of procedure, the Committee on the Rights of the Child has decided to devote time, during its 53rd pre-sessional working group meeting, to the commemoration of the twentieth anniversary of the adoption of the Convention on the Rights of the Child by the General Assembly. The event, which will take place on 8 and 9 October 2009 in Geneva, is entitled "Dignity, Development and Dialogue ... More to be done". States have been invited to join this important commemoration.

[1] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[2] For the list of States that have signed, ratified or acceded to the Convention and Optional Protocols, as well as the dates of their signature, ratification or accession, see www.ohchr.org.

IV. International efforts and national progress in tackling child labour

Ninety years of international action against child labour

7. Across the world, over 200 million children are engaged in work that violates international standards on child labour. It is work that is unacceptable because the children involved are too young and should be in school, or because even though they have attained the minimum age for admission to employment, the work that they do is unsuitable for a person below the age of 18. Many children are victims of the worst forms of child labour, such as bonded labour, slavery or practices similar to slavery, production and trafficking of drugs or other work which is likely to harm their health, safety or morals. Child labour, while a serious human rights violation in itself, often entails the erosion of other children's rights. It further impedes the achievement of basic education for all, perpetuating poverty, and undermines development.

8. Action against child labour has been a priority for the international community for close to a century. Already at the first conference of the International Labour Organization (ILO), its member States adopted the Minimum Age (Industry) Convention, 1919 (No. 5), which was followed over the years by a number of further sectoral minimum age Conventions.[3] On 26 June 1973, the International Labour Conference adopted the Minimum Age Convention No. 138, consolidating and replacing all these instruments and providing one general minimum age standard for all sectors of economic activity. With 154 ratifications at 1 July 2009, more than 80 per cent of the ILO member States, Convention No. 138 provides the basic framework for both legislative and policy measures to combat child labour.

9. The landmark adoption in 1989 of the Convention on the Rights of the Child confirmed the relevance of Convention No. 138. Article 32 of the United Nations Convention, which provides for the child's right to be protected from economic exploitation, requires, in paragraph 2, that States Parties should have regard to "the relevant provisions of other international instruments" when setting rules governing the minimum age and conditions of employment of young persons. Any work carried out by children in conditions below those established by the United Nations Convention or by ILO standards should be considered as economic exploitation. This has indeed been the position of the Committee on the Rights of the Child in examining periodic reports from States Parties.

10. The magnitude of the problem of child labour, as well as the fact that a very high number of children are trapped in the worst forms of child labour, gave rise to the realization that a new international standard was required to prioritize action

[3] Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Sea) Convention, 1920 (No. 7), the Minimum Age (Agriculture) Convention, 1921 (No. 10), the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), the Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), the Minimum Age (Industry) Convention (Revised), 1937 (No. 59), the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60), the Minimum Age (Fishermen) Convention, 1959 (No. 112), and the Minimum Age (Underground Work) Convention, 1965 (No. 123). Conventions Nos. 5, 7, 10 and 15 were closed to further ratification. All of the above conventions remain in force for a limited number of countries.

against these worst forms, while at the same time ensuring that the total elimination of all forms of child labour remains the overall objective. In 1999, ILO member States unanimously adopted the Worst Forms of Child Labour Convention No. 182. Article 1 of this Convention requires countries to "take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency". The Convention entered into force on 19 November 2000 and has been ratified by 171 member States as at 1 July 2009.

11. The impact of the international legal framework, further strengthened by the two Optional Protocols to the Convention on the Rights of the Child,[4] can be observed in all aspects of the struggle against child labour, ranging from legislation, policy frameworks and practical measures to reduce child labour, to data collection and changing public attitudes. A wide programme of technical cooperation exists, involving most prominently the ILO, the United Nations Children's Fund (UNICEF) as well as the World Bank. A worldwide movement of actors against child labour, bringing together international agencies, States, non-governmental organizations, employers and trade unions, community-based organizations, parents and children has started to form in the last decade, providing a much-needed basis for action at the national level. Much of the knowledge about what fighting child labour entails has been accumulated through the ILO's International Programme on the Elimination of Child Labour (IPEC), which was created in 1992 with support from various member States and currently operates in 88 countries.

The existing international legal framework and its relevance to the elimination of child labour

12. The recognition of child labour as a global phenomenon for elimination has been reflected in a wide range of international instruments, closely linked and complementing each other, but belonging to several different bodies of international law. While the frameworks of international labour standards and international human rights law are addressed in more detail in this report, relevant instruments can be found also in international humanitarian law, international criminal law, as well as a number of United Nations and regional conventions addressing a wide range of issues, from slavery to the status of stateless persons.

State obligations under the ILO conventions

13. There are forms of work that children — boys and girls below the age of 18 — can legitimately do, and such work may even be beneficial to children in preparing them for a productive life as adults. Thus, not all work done by children is considered as "child labour" which should be targeted for elimination. Child labour concerns work for which the child is either too young — work done below the required minimum age — or work which, because of its detrimental nature or conditions, is altogether considered unacceptable for children and is prohibited. ILO conventions therefore specify a system of minimum age levels for admission to work or employment, and also identify a number of activities and situations to which no child should be subjected.

[4] United Nations, *Treaty Series*, vols. 2171 and 2173, No. 27531.

14. The Minimum Age Convention No. 138, supplemented by Recommendation No. 146, sets forth in article 1 that ratifying States are to pursue a national policy to ensure the effective abolition of child labour, and to raise progressively the minimum age for employment or work. The framework regarding the minimum age is as follows:

Convention 138	*General*	*For developing countries ("where economic and education facilities are insufficiently developed")*
General minimum age (article 2)	Not less than the end of compulsory schooling, and in any case not less than 15 years	14 years (initially)
Light work (article 7)	13 years	12 years
Work likely to jeopardize the health, safety or morals of young persons (article 3)	18 years (16 years under strict conditions)	18 years (16 years under strict conditions)

15. The Convention recognizes that the fixing of a minimum age(s) is by itself not sufficient and additionally requires the regulation of the conditions and number of hours of work for children over the minimum age, as well as the provision of appropriate penalties, and the keeping by employers of registers with information about workers under 18 years of age in the workplace. As noted above, the Convention also requires the pursuit of "a national policy".[6] Convention No. 138 covers all sectors of economic activity and employment, as well as work outside a formal employment relationship, such as self-employment.[7] Work carried out within the framework of education and vocational training is under certain conditions excluded from the application of the Convention. Work done for artistic performances may, by permits granted in individual cases, even be allowed below the minimum age prescribed by the Convention.

16. The Worst Forms of Child Labour Convention No. 182, accompanied by Recommendation No. 190, reflects a global consensus that immediate and effective measures should be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency (article 1). Convention No. 182 covers all girls and boys under the age of 18[8] in line with the definition of the child under

[5] The flexibility foreseen for developing countries regarding the level of the minimum age is optional and needs to be used at the time of ratification (article 2(4) of the Convention).

[6] The Minimum Age Recommendation No. 146 (supplementing Convention No. 138) suggests that policy measures may include: adequate facilities for education and vocational orientation and training; promotion of employment-oriented development in rural and urban areas; extension of economic and social measures to alleviate poverty, and also to ensure family living standards and income which are such as to make it unnecessary to have recourse to the economic activity of children; social security and family welfare measures aimed at ensuring child maintenance; and facilities for the protection and welfare of children and young persons.

[7] Because it may not always be easy for countries to initially meet the Convention's requirements for all sectors and forms of work or employment, the Convention features several clauses allowing flexibility: countries may, for example, initially exclude limited categories such as subsistence agriculture or family undertakings.

[8] ILO Convention No. 182, article 2.

the Convention on the Rights of the Child. The Convention, as noted above, stipulates that the worst forms of child labour comprise:

(a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) The use, procuring or offering of a child for prostitution, for the production of pornography or pornographic performances;

(c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.[9]

17. The Convention provides significant detail concerning the policy and operational aspects of the fight against child labour. It requires ratifying States to design and implement programmes of action to eliminate the worst forms of child labour as a priority[10] and establish or designate appropriate mechanisms for monitoring implementation of the Convention.[11] It also calls for time-bound measures for prevention; to provide support for the removal of children from the worst forms of child labour and their rehabilitation; to ensure access to free basic education or vocational training for all children removed from the worst forms of child labour; to identify children at special risk; and to take account of the special situation of girls.[12] The Convention also calls for international cooperation and assistance in efforts to ensure the effective implementation of its provisions, including support for social and economic development, poverty eradication and education.[13]

18. The provisions of the Worst Forms of Child Labour Recommendation No. 190 give, inter alia, useful guidance on identifying the practices constituting "hazardous" work and stress the importance of criminalizing and prosecuting the offences of involving a child in one of the worst forms of child labour. States should as a matter of urgency also provide for other criminal, civil or administrative remedies, where appropriate, such as special supervision of enterprises which have used the worst forms of child labour, and in cases of persistent violation, consideration of temporary or permanent revoking of permits to operate.[14]

19. In addition, ILO bodies supervising the application of international labour standards have already been dealing with child labour in several countries under the ILO Forced Labour Convention, 1930 (No. 29). Regarding the aspect of voluntary consent by the child or his or her parents, the ILO supervisory bodies have further commented that such consent is not valid if the employment is likely to jeopardize

[9] Ibid., article 3.
[10] Ibid., article 6.
[11] Ibid., article 5.
[12] Ibid., article 7.
[13] Ibid., article 8.
[14] Recommendation No. 190, para. 14.

the health, safety or morals of the child whereby it is generally prohibited for persons below the age of 18.[15]

20. By virtue of their wide international support, the two ILO conventions are a key part of the international framework for monitoring the rights of the child. As they are now ratified by the great majority of countries, and require reporting every two years, they are an important mechanism for monitoring the compliance and progress of member States and complement the Convention on the Rights of the Child.

Holistic approach of the Convention on the Rights of the Child to child labour and related issues

21. The Convention on the Rights of the Child addresses issues related to the economic exploitation of children, the use of children in the illicit production and trafficking of narcotic drugs and psychotropic substances, all forms of sexual exploitation and sexual abuse, the sale and traffic in children for any purpose or in any form, as well as all other forms of exploitation prejudicial to any aspects of the child's welfare (articles 32-36). The two Optional Protocols address in detail the issues of the involvement of children in armed conflict, and the sale of children, child prostitution and child pornography. The Optional Protocols offer concrete definitions and describe in more detail the obligations of ratifying States. In particular, the Optional Protocol on the sale of children, child prostitution and child pornography centres on the criminalization of practices prohibited therein, along with the establishment of jurisdiction, liability and appropriate penalties. This framework has allowed the Committee on the Rights of the Child to link practices related to child labour to other violations of the rights of the child and to recommend a more holistic, child-centred, rights-based approach to eliminating child labour and its root causes.

22. At its fourth session, in 1993, the Committee devoted its second day of general discussion to the issue of the economic exploitation of children, described as "a complex reality which, while underlying the vulnerability of children, openly emphasizes the holistic nature of their rights and the urgency of the implementation of those same rights".[16] As a result of this discussion, the Committee adopted a set of recommendations, underscoring the indivisibility and interrelatedness of all rights and their bearing on the human dignity of the child, the relevance of the Convention's general measures of application in situations of economic exploitation of children, as well as the importance of both prevention in terms of child protection, and the physical and psychological recovery and social reintegration of children victims. The Committee recommended, in particular, that States parties establish a national mechanism for coordinating policies and monitoring the Convention's implementation with responsibilities in the area of protection from economic exploitation; launch information campaigns addressed to children in particular and the public at large; and encourage the participation of children in school and social life. The Committee has since consistently addressed child labour

[15] Report III (Part 1B), General Survey concerning the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105).

[16] CRC/C/20, annex V, Opening statements, Statement by Mrs. Marta Santos Pais.

and related issues in its General Comments interpreting the Convention, as well as its periodic reviewing of State party reports on its implementation.

23. The supervisory system of ILO child labour standards is in practice linked to the United Nations system of monitoring the Convention on the Rights of the Child. Information flows between the two systems in both ways. Outstanding comments of the ILO supervisory organs, as well as ILO activities on child labour in the country and other practical information, help the Committee on the Rights of the Child to examine the issues of child labour in detail when reviewing State party compliance. Likewise, information supplied by governments under the Convention on the Rights of the Child in their reports has been highly useful for the ILO, especially concerning the practice of child labour or economic exploitation, but also as regards other aspects such as the definition of the child, education, sexual or other types of child exploitation and abuse. Both the Committee and the ILO Committee of Experts on the Application of Conventions and Recommendations frequently refer to each other's comments.

Child labour: current worldwide situation and international commitments and progress

24. The ILO Global Report of 2006 on child labour[17] indicated that the number of children involved in child labour globally fell by 11 per cent over the period 2000-2004, 28 million fewer than 2000. This translates into a decline in child labour worldwide from 246 million children to 218 million children. The sharpest decrease was in the area of hazardous work by children, where there was a 26 per cent reduction overall. There was an even steeper decrease of 33 per cent in respect of children aged 5-14 at risk in hazardous work. Much of this decline was achieved by countries in Latin America that invested heavily in strengthening education and in addressing poverty through enhanced social safety nets and services. They also paid attention to the rights and direct needs of children involved in labour, and targeted them for removal from child labour and for inclusion in recovery and reintegration programmes. Among others, social services were provided through targeted cash incentives, which proved effective at both household and national levels.

25. Almost 7 out of 10 children are estimated to be working in the agricultural sector; whereas 22 per cent work in services and 9 per cent in industry, including mining, construction and manufacturing. In 2010, the ILO will release a new global report and new global estimates on child labour. Since the estimates will be based on data from 2008, before the current global and financial crisis deepened, it will be possible to see if the above-mentioned declining trend of child labour has been maintained.

26. The remarkable decline in child labour is not evenly spread among the continents. Latin America and the Caribbean stood out in terms of a rapid decline of child labour. The number of children involved in child labour in the region had fallen by two thirds over the period 2000-2004, with just 5 per cent of children ages 5-14 still engaged in such unlawful activities. In the Asian-Pacific region,

[17] ILO, *The end of child labour — Within reach*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report to the International Labour Conference, 95th Session, 2006, Report I(B).

122 million children ages 5-14 are engaged in child labour. Less than 20 per cent of Asian children in that age group work. In industrialized countries, about 2.5 million children under the age of 15 were estimated to be in child labour in 2000.

27. With 26 per cent, or close to 50 million children, the proportion of children engaged in economic activities in sub-Saharan Africa is currently the highest of any region in the world. This is largely a result of increasing populations and, more particularly, the impact of HIV/AIDS. The epidemic propels children into work too early because of economic necessity, placing children at risk and depriving them of education and care, increases social exclusion and stigmatization and can lead them to work, which renders them increasingly vulnerable to acquiring HIV/AIDS themselves. By 2010 sub-Saharan Africa's total labour force is expected to have decreased by 9 per cent owing to HIV/AIDS, and by more than 20 per cent in the worst affected countries.[18] Given that 70 to 90 per cent of the workforce in many African countries is in agriculture, there are clear implications for the use of child labour, particularly in the context of the current food crisis. The absence of functioning health systems in rural areas, particularly with regard to accessible antiretroviral treatment, could further increase child labour rates.

28. A number of international commitments are directly or indirectly linked to the struggle against child labour, including notably the Millennium Development Goals, setting out time-bound commitments by States. Goal 2 of universal primary education is one of the fundamental commitments of the international community for success in the elimination of child labour.[19] The provision of basic universal education of good quality for all children and the completion of primary schooling up to the minimum age for admission to employment or work is the main idea underpinning Convention No. 138. Attendance at school removes children, in part at least, from the labour market. The skills acquired at school may lead directly to the sort of gainful employment that will help children rise above the poverty into which they were born. Furthermore, when children who have had the benefits of an education — particularly girls — grow up, they are more likely to choose education for their own children, thus helping to reduce the future ranks of child labourers. Education is also an important instrument for preventing children from falling victim to the worst forms of child labour or for removing and rehabilitating those that have.

29. The Millennium Development Goal of universal primary education cannot be realized as long as hundreds of millions of children are involved in child labour. The Global Task Force on Child Labour and Education for All, which brings together ILO, the United Nations Educational, Scientific and Cultural Organization (UNESCO), UNICEF, the World Bank, the United Nations Development Programme (UNDP), Education International, the Global March against Child Labour, and the Governments of Brazil and Norway, has as its main role the mainstreaming of child labour concerns into education policies and planning. The secretariat for the Task

[18] Economic Commission for Africa and ILO-AIDS, Labour supply threatened by HIV/AIDS, ECA Press Release 28/2004.

[19] The elimination of child labour is also clearly linked to poverty reduction (MDG 1). Child labour also has a gender equality dimension (MDG 3) in view of the discriminatory practices that deprive many girls of appropriate education and add to their burdens through excessive household chores. Combating HIV/AIDS (MDG 6) also bears on child labour, since AIDS orphans are among the children most at risk, as does the development of a global partnership for development (MDG 8), including the promotion of decent work for youth.

Force is provided by ILO, as the lead agency for technical cooperation against child labour.

30. ILO member States aim at eliminating the worst forms of child labour by the year 2016, as set out in the Global Action Plan contained in the ILO Global Report of 2006 on child labour. The Action Plan calls for the adoption of time-bound targets to meet the goal of eliminating the worst forms of child labour by 2016, and eventually all its forms. The 2016 objective parallels and contributes to the two Millennium Development Goals on education and poverty and is an ambitious but achievable goal. The resources to end the worst forms of child labour and, indeed, all child labour are there.

31. Ultimately, the achievement of the 2016 objective requires the political commitment of governments to stay focused in their efforts. The forthcoming Global Report on Child Labour, due for release in 2010, will take stock of progress achieved towards the target. Moreover, the Government of the Netherlands will, in May 2010, host a global conference on child labour organized together with ILO. One important aim of the conference will be to map the way forward to help countries to achieve the goal of 2016.

Impact of the global economic and financial crisis on child labour: achievements at stake

32. The world faces a deep financial and economic crisis, which threatens the progress achieved in the last years and frustrates countries' efforts to eliminate child labour. The global crisis has far-reaching consequences for the developing world and threatens to push more children into the workforce, while girls are the first to be withdrawn from school in times of economic hardship.[20] The erosion of progress made in the fight against child labour needs to be urgently prevented. More households are being pushed into poverty — extreme poverty could increase by 6 per cent, or 200 million people. Shifts to rural and informal employment are already taking place, providing fertile ground for child labour. Almost 40 per cent of developing countries are highly exposed to the poverty effects of the crisis, compounding the already high levels of pre-crisis poverty.

33. Among the policy responses required must be the re-prioritization of existing public spending patterns to ensure delivery of core services to vulnerable households ("social stimulus" measures). Also crucial is the enhanced mainstreaming of the elimination of child labour in the work programmes of labour ministries and ensuring their coordinating role with other relevant parts of Government. The collection of accurate data and information and the role of the social partners and social dialogue are important to help governments fashion the right responses. Furthermore, in the face of adverse economic conditions, the pursuit of national plans of action and time-bound measures becomes even more important, as is staying on track with achieving the Millennium Development Goal of universal primary education. In other words, the only viable answer to the threats this global crisis poses to child labour is to strengthen social protection, and to make sure that social and educational services are provided to the most vulnerable.

[20] See the statement by Ms. Navanethem Pillay, United Nations High Commissioner for Human Rights, at the Conference on the World Financial and Economic Crisis and Its Impact on Development in June 2009.

International and national actors against child labour

34. In the second half of the 1990s, the international profile of child labour attained unprecedented levels. Today, a number of international agencies, such as ILO, UNICEF, UNESCO, the World Health Organization (WHO), UNDP, the World Bank and the regional development banks, influence the normative, policy and financial environment. Among them, ILO, UNICEF and the World Bank are the most important providers of technical assistance to specifically address child labour, ILO having the largest technical cooperation programme on child labour in the United Nations system (IPEC).

35. The responsibility to eliminate child labour lies first and foremost with States. However, they face a big task — which for each country has its own specific challenges and solutions — and the support of other stakeholders is very important. Thanks to an enhanced focus on child labour in technical cooperation, national governments across the world have shown much greater commitment to fighting child labour in the last decade. Key donor countries and multilateral agencies provide resources and political support to the work of the specialized agencies. Collaboration with employers' and workers' organizations remains an essential element in action against child labour. A key point is to take advantage of their positions in influencing policy development and reform within the sphere of key socio-economic areas, such as employment, trade, social welfare and education. Moreover, private sector actors, particularly transnational enterprises, perceive child labour as a real risk in their increasingly complex supply chains. Their current efforts to work with the United Nations, UNICEF and ILO to address child labour are a key opportunity for change. Much of the innovation and dynamism in fighting child labour comes from civil society actors at both the national and international levels. The worldwide movement further includes the mass media and the academic community, which increasingly spend time on the issue of child labour. It is important that efforts continue to make the movement more coherent so as to help countries to make the right policy and operational choices to fight child labour.

Key strategies in tackling child labour

36. *Education*. According to the UNESCO Education For All Global Monitoring Report of 2009, entitled "Overcoming Inequality: why governance matters", around 75 million children, of which 55 per cent are girls, are not in school, and almost half of them are in sub-Saharan Africa. Many more children are enrolled in school but do not attend regularly, particularly in rural areas. Projections for 134 countries, accounting for some two thirds of out-of-school children in 2006, suggest that 29 million children will be out of school in 2015 in those countries alone. School attendance figures provide stark evidence of the trade-off between child labour and universal primary education. There is also a correlation between child labour and delayed school entry. According to UNESCO, the causality relationship, however, varies among and within countries. When schools are unavailable or distant, when the cost of schooling is high and the perceived quality low, disincentives to send children to school may push them into work. In other cases, household poverty and associated labour demands "pull" children into labour markets: that is, they are not in school because they are working. Consequently, efforts to combat child labour

should invariably target the achievement of universal primary education, the raising of the quality of education, as well as poverty eradication.

37. In the 2009 Global Monitoring Report, UNESCO recommended setting ambitious long-term goals supported by realistic planning and sufficient medium- to long-term budgetary allocations to ensure progress in access, participation and completion in primary education. Ensuring non-discrimination in accessing education is key to achieving the Millennium Development Goal of universal primary education. Special attention must be given to ensuring equitable access to education for girls, disadvantaged groups and to remote regions by setting clear targets for reducing disparities, backed by practical strategies for achieving more equitable outcomes.

38. Increasing the quality of education as a way to attract and keep children in school is a recognized tool in the prevention and elimination of child labour. The quality should be raised — while expanding access — by focusing on retention and completion rates and reducing school drop-out through school and better learning outcomes, increasing textbook supply and quality, strengthening teacher training and support, and ensuring that class sizes are conducive to learning. In the case of former child labourers, "second-chance" educational programmes to allow for their smooth transition in school or vocational training have proved to be a crucially important response to their particular needs. Organizing literacy and adult education programmes for parents are particularly effective in reinforcing the role of families.

39. *Strengthening social protection.* While the current global economic crisis has reinforced the urgency of adequate social protection for the most vulnerable, experience has shown that those countries that have invested the most in social protection and in education have made the greatest progress towards the elimination of child labour. Strong child protection provides a defence against the risks and vulnerabilities underlying many forms of harm and abuse, including sexual abuse and exploitation; trafficking; child labour; violence; living or working on the streets; and the impact of armed conflict, including the use of children by armed forces and groups. Social protection, by supporting the development of a safe and nourishing family environment and by supporting parents in fulfilling their responsibilities, provides a key buffer against shocks and pre-empts children from entering into child labour in the first place. Yet, some 80 per cent of the global population has insufficient access to social protection measures. Particular emphasis should be given to measures at the household level to combat child labour, for example, via conditional/non-conditional cash transfers programmes, access to credit, social insurance schemes, pensions, and fee waivers that enable orphans and vulnerable children to access and take up educational and health services. Of guidance should be the UNICEF 2008 Child Protection Strategy, which aims to reduce children's exposure to harm by accelerating actions that strengthen the protective environment for children in all settings.[21]

40. *Data collection.* Empirical evidence on child labour and the analysis of its links to other aspects of development are crucial in developing effective and targeted responses to child labour, and in integrating child labour in policy formulation. Indeed, ILO Convention No. 182 and its accompanying Recommendation No. 190 require appropriate mechanisms to monitor

[21] E/ICEF/2008/5/Rev.1, para. 6.

implementation,[22] emphasizing the importance of data and information on child labour. With the adoption of the resolution concerning Statistics of Child Labour on 5 December 2008 by the 18th International Conference of Labour Statisticians, child labour is now a globally recognized part of core labour statistics.[23] The resolution sets in place agreed international standards for the statistical measurement of child labour, and is expected to facilitate the comparison of child labour data across countries and over time, as well as global child labour estimates and trends. The inclusion for the first time of "household chores" within the new statistical definition of child labour is a key step forward in the capturing and analysis of girls' child labour, which previously was covered only partially in statistical definitions and surveys. The double burden of girls — economic and non-economic work within the household — is one of the key causes contributing to girls' lack of access to and non-completion of education. The new definition of child labour will support the development of comprehensive policy frameworks concerning child labour.

41. *Knowledge sharing*. A large body of knowledge has been accumulated over some two decades of action against child labour. It is important to ensure that countries can access resources and technical knowledge, and learn from good practices. Knowledge sharing goes to the very heart of technical cooperation to assist member States with implementation of international child labour standards. The ILO's IPEC Programme is a centre of knowledge and know-how on eliminating child labour and plays a facilitating role. One important recent initiative to assist knowledge sharing was the launch of the South-South Initiative to Combat Child Labour on 14 December 2007 in Brasilia, which aims at enabling countries in the South to assist each other in the development of effective measures against child labour.

42. *Advocacy and public awareness-raising*. Changing public attitudes to child labour is important because a public consensus about the unacceptability of child labour contributes to a climate conducive to the elimination of child labour. At the global level, the World Day against Child Labour has been held on 12 June each year since 2002. It is an opportunity to generate global media and public attention to child labour, while also helping to build national partnerships for action. The World Day is being observed by a growing number of countries across the world, and has proved to be a useful tool to raise public awareness about specific themes, such as girls in child labour, education, child labour in mining and child domestic labour. Another tool that has proven its effectiveness is the programme "Supporting Children's Rights through Education, the Arts and the Media" (SCREAM), launched by ILO in 2002, which offers a methodology which can be used to promote human rights education in schools.

43. *Addressing the root causes of child labour*. While poverty and shortcomings in education are considered the principle cause of child labour, no single factor can fully explain the persistence of child labour. Public indifference, discrimination on various grounds — including gender-based discrimination — as well as social exclusion, the impact of the HIV/AIDS pandemic on children, violence against children, and the consequences of increased migration and mobility contribute to the enhanced vulnerability of children to child labour. Effective interventions against

[22] ILO Convention No. 182, article 5.

[23] ILO, Report of the Conference (ICLS/18/2008/IV), 18th International Conference of Labour Statisticians, Geneva, December 2008.

child labour must be sensitive to these factors in order to ensure that every child can be reached.

The ways forward

44. The last two decades have provided much of the knowledge about what it takes to end child labour. Eliminating child labour is no longer a question of "how?" but of "when?", since despite advances in standard setting and know-how, progress towards eliminating child labour is still very slow. Moreover, there remain important policy, programming and data gaps in a number of important areas, most notably child labour in agriculture, forced and bonded labour, child domestic labour, child soldiers, and the use of children in illicit activities. National governments and international actors should strengthen efforts to fulfil commitments for international cooperation and assistance, in order to attain the targets set for the elimination of child labour by 2016. States are in particular encouraged to:

(a) **Ratify the Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, the ILO Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182), as well as other relevant international and regional treaties;**

(b) **Cooperate with and support the efforts of the Global Task Force on Child Labour and Education for All;**

(c) **Increase efforts to achieve all the Millennium Development Goals, including commitments agreed upon during the High-level Event on the Millennium Development Goals held on 25 September 2008. Particular focus should be given to Goal 2 on achieving universal primary education in order to strengthen education systems and the provision of free basic education of good quality up to the minimum age for admission to employment or work. National development frameworks should focus on strengthening the provision of social protection of children and social services to the most vulnerable children and their families, to enable them to access and take up educational and health services;**

(d) **Consider ways to mitigate the impact of the world financial and economic crisis, in order to achieve the goal of eliminating the worst forms of child labour by 2016, during the general debate at the sixty-fourth session of the General Assembly;**

(e) **Maintain child labour high on the political agenda, including mainstreaming child labour concerns and education in national development frameworks, poverty reduction strategies and international technical cooperation. National development frameworks should focus on strengthening the provision of social protection of children and social services to the most vulnerable children and their families, to enable them to access and take up educational and health services;**

(f) **Provide support to initiatives in the area of technical cooperation aimed at eliminating child labour, and use the World Day against Child Labour to focus public attention on child labour and raise awareness about specific child labour issues.**

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Items 96 (u) and (x) of the provisional agenda*
General and complete disarmament

Assistance to States for curbing the illicit traffic in small arms and light weapons and collecting them

The illicit trade in small arms and light weapons in all its aspects

Report of the Secretary General

Summary

The present report provides an overview of reported activities undertaken by the United Nations system, intergovernmental organizations and Member States pertaining to the implementation of General Assembly resolution 63/72, on the illicit trade in small arms and light weapons in all its aspects.

It also summarizes activities reported at the national, regional and subregional levels by the United Nations, States and organizations that are in a position to provide assistance to States in their efforts to curb the illicit trade in small arms and light weapons and in their collection and disposal, pursuant to General Assembly resolution 63/66.

During the reporting period, efforts by all stakeholders to further develop and implement small arms control measures have continued. An increased emphasis is notable not only on curbing the supply of illicit small arms and light weapons but also on simultaneously stemming demand for these weapons.

The successful reinvigoration of the Coordinating Action on Small Arms mechanism is a reflection of the growing acknowledgement among United Nations entities of the importance of a coherent approach to small arms issues.

The present report covers the period from August 2008 to July 2009.

* A/64/150.

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I. Introduction

1. In its resolution 63/72 entitled "The illicit trade in small arms and light weapons in all its aspects", the General Assembly endorsed the report adopted at the Third Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (A/CONF.192/BMS/2008/3). In the resolution, the Assembly encouraged all States to implement the measures highlighted in the section of the report entitled "The way forward" and underlined that the issue of the illicit trade in small arms and light weapons in all its aspects required concerted efforts at the national, regional and international levels and that their uncontrolled spread in many regions of the world had a wide range of humanitarian and socio-economic consequences and posed a serious threat to peace, reconciliation, safety, security, stability and sustainable development. It also requested the Secretary-General to report to the General Assembly at its sixty-fourth session on the implementation of the resolution.

2. By its resolution 63/66 entitled "Assistance to States for curbing the illicit traffic in small arms and light weapons and collecting them", the General Assembly invited the Secretary-General and those States and organizations that were in a position to do so to continue to provide assistance to States for curbing the illicit traffic in small arms and light weapons and collecting them, and encouraged cooperation among State organs, international organizations and civil society in supporting programmes and projects to that end. The Assembly also requested the Secretary-General to continue to consider the matter and to report to it thereon at its sixty-fourth session.

3. The present report is submitted pursuant to the requests made by the General Assembly in the above-mentioned resolutions. To enable a coherent approach to these overlapping and interconnected issues, both resolutions are addressed together in the report.

II. Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, and assistance to States for curbing the illicit traffic in small arms and light weapons and collecting them

A. United Nations system

Security Council

4. As one of the measures stipulated under Article 41 of the Charter of the United Nations, the Security Council maintains several arms embargoes that prohibit all States from supplying arms and related materiel, as well as from providing related technical training or assistance, to the target State, region, individual or entity. In particular, six arms embargoes are currently in place in Africa in order to address

specific conflicts, which are fuelled, to a great extent, by the illicit trade in small arms and light weapons, or to help ensure stability in post-conflict situations.[1]

5. During the period under review, the mandates of the expert groups[2] that monitor the implementation on the ground of arms embargoes in respective States have been extended by the Security Council. In their reports,[3] each of the expert groups recommended ways to strengthen the effectiveness of the arms embargo measure. Furthermore, the United Nations Mission in the Democratic Republic of the Congo, the United Nations Operation in Côte d'Ivoire and the joint United Nations-African Union Mission in Darfur, previously tasked by the Council to monitor the arms embargoes in their areas of operations, will continue to retain this aspect of their respective mandates.

6. By its resolution 1844 (2008), the Security Council further strengthened the general and complete arms embargo on Somalia and imposed a targeted arms embargo on individuals and entities designated by the Sanctions Committee. In addition, the Council imposed a travel ban and/or an assets freeze on individuals and entities designated by the Sanctions Committee as having acted in violation of the general and complete arms embargo.

7. Field missions mandated by the Security Council have also continued their work on small arms issues, in close cooperation with the United Nations country teams. Activities included support for a national commission for civilian disarmament and combating small arms proliferation in Burundi, disbandment of illegal armed groups in Afghanistan, support for local authorities in weapons destruction programmes in Timor-Leste and the putting in place of mechanisms for the disposal of weapons and ammunition in Liberia. In Liberia, the United Nations Police Firearms Inspection Team has continued to monitor the arms embargo and has carried out regular inspections of armouries and inventories of weapons and ammunition that have been procured by the Government of Liberia under exceptions to Security Council resolution 1521 (2003), alongside efforts by the United Nations Development Programme (UNDP) to enhance Government capacity to collect and destroy illicit small arms and light weapons.

8. As a subsidiary body to the Security Council, the Counter-Terrorism Committee is mandated to monitor the implementation of Security Council resolution 1373 (2001), in which it is specified that all States should eliminate the supply of weapons to terrorists. The Committee is assisted in its work by the Counter-Terrorism Committee Executive Directorate. As part of its technical assistance strategy, the Executive Directorate has continued to undertake assessment

[1] The six arms embargo regimes in Africa relate to Côte d'Ivoire, the Democratic Republic of the Congo, Liberia, Sierra Leone, Somalia and the Sudan. In addition, the Council has imposed a targeted arms embargo on Al-Qaida and the Taliban and associated individuals and entities, an arms embargo in connection with the Democratic People's Republic of Korea (with the exception of the supply by States to the Democratic People's Republic of Korea of small arms and light weapons, on which these States must notify the relevant Sanctions Committee in advance) and an export ban on arms and related materiel from the Islamic Republic of Iran.

[2] Monitoring Group on Somalia, Panel of Experts on Liberia, Panel of Experts on the Sudan, Group of Experts on the Democratic Republic of the Congo and Group of Experts on Côte d'Ivoire.

[3] These reports are published as documents of the Security Council and are available on the websites of the Security Council Committees to whom these expert groups report (see www.un.org/sc/committees/).

visits in order to identify the needs of Member States and to facilitate delivery of technical assistance. During the reporting period, the Executive Directorate participated in the work of the Burundi configuration of the Peacebuilding Commission and the Guinea-Bissau configuration of the Peacebuilding Commission and took part in inter-agency group assessment missions for the security sectors of Guinea-Bissau and Sierra Leone. An important dimension of those activities is the prevention of arms smuggling in the countries in question.

9. The continued concern of the Security Council with the issue of small arms was highlighted in an aide-memoire annexed to the Security Council presidential statement of 14 January 2009 on the protection of civilians in armed conflict (S/PRST/2009/1), in which the need for States and regional and subregional organizations to adopt measures to curb and reduce the illicit trafficking of small arms and light weapons was underscored. The aide-memoire also proposed that the Security Council should consider two other actions related to improved control over small arms and light weapons. The first was to encourage strengthened practical cooperation between United Nations peacekeeping and other relevant missions authorized by the Security Council aimed at monitoring and preventing the cross-border movement of small arms and light weapons. The second was to mandate United Nations peacekeeping and other relevant missions authorized by the Security Council to collect and dispose of or secure illicit and/or surplus small arms and light weapons as well as surplus ammunition stockpiles.

General Assembly

Follow-up to the Third Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects

10. In the report adopted at the Third Biennial Meeting of States to Consider the Implementation of the Programme of Action (see A/CONF.192/BMS/2008/3), held in New York from 14 to 18 July 2009, States stressed the importance of regional approaches to the implementation of the Programme of Action and the usefulness, therefore, of convening regional meetings sponsored by interested States and international, regional and subregional organizations in a position to do so, in particular in the years between biennial meetings. They also welcomed a coordinating role by the United Nations, where needed, in setting up such regional meetings. In this connection, the United Nations Office for Disarmament Affairs organized in 2009 a meeting in Sydney, Australia for States of the Pacific region on implementation of the Programme of Action and a meeting in Kigali for States from Southern Africa, the Great Lakes region, and the Horn of Africa and bordering States. States of these regions further developed a regional approach to the implementation of the Programme of Action, thereby strengthening regional ownership and coordination, focusing on concrete and time-bound goals, and moving towards an alignment of their regional action plans and workplans with the United Nations cycle of meetings. Moreover, the outcomes of these meetings have included the identification of specific regional priorities, an appeal to incorporate armed violence reduction strategies in efforts to curb the illicit trade in small arms and a reference to the value of further developing measurability in the field of small arms control in order to improve the outcomes of capacity-building and programming. Additional regional meetings are expected to be convened before the

next Biennial Meeting of States, to be held from 14 to 18 June 2010, subject to extrabudgetary funding.

Coordinating Action on Small Arms mechanism

11. During the reporting period, the Coordinating Action on Small Arms mechanism achieved broader participation within the United Nations system. It strengthened its coordination role in the area of small arms, culminating in the endorsement of a strategic framework for the period 2009-2013, which includes small arms demand and armed violence reduction issues. The mechanism has enhanced its capacity for information sharing since the launch in July 2008 of the Programme of Action Implementation Support System (see www.poa-iss.org). The system is a web-based comprehensive information tool for all stakeholders who wish to contribute to the implementation of the Programme of Action.

12. In recent years, the United Nations system has been successful in setting technical standards in specific thematic areas, such as mine action and disarmament, demobilization and reintegration. In the same vein, the Coordinating Action on Small Arms mechanism has embarked on a project to develop international small arms control standards: a set of internationally accepted and validated technical standards that provide comprehensive guidance to practitioners and policymakers on legal, policy and operational issues surrounding small arms control. The project envisages the completion of a set of standards by the Fourth Biennial Meeting of States to Consider the Implementation of the Programme of Action, scheduled for June 2010.

Office for Disarmament Affairs: regional centres

13. The Regional Centre for Peace and Disarmament in Africa is in the process of expanding its small arms-related activities to all of Africa. The Centre widened its Small Arms Transparency and Control Regime in Africa database to include a register and database of brokers and of licences for brokering activities in Eastern African States. The Centre is cooperating with the African Union to develop a coherent continental strategy to prevent the proliferation of small arms and light weapons. The Centre also launched a project entitled "Regulating small arms and light weapons brokering in Africa" and assisted the National Commission on Small Arms and Light Weapons of Togo in drafting the Commission report on measuring the impact of small arms on the civilian population. Moreover, as requested by the United Nations Standing Advisory Committee on Security Questions in Central Africa, the Centre is preparing a draft legally binding instrument for the control of small arms and light weapons in Central Africa (see para. 37 below); it also prepared for the framework a code of conduct for defence and security forces.

14. The Regional Centre for Peace and Disarmament in Asia and the Pacific organized a regional seminar held in Kathmandu from 17 to 18 June 2009 on the illicit brokering of small arms and light weapons in Central Asia and South Asia. In February 2009, the Centre also hosted a workshop on small arms and light weapons for non-governmental organizations, aiming at assessing the contribution of civil society in combating the proliferation and misuse of small arms and light weapons in the Asia and Pacific region. The Centre highlighted its role on small arms issues in the Pacific through its active participation in the regional meeting on the Programme of Action held in Sydney from 22 to 23 June 2009.

15. The Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean continued to implement its train-the-trainers programme on combating illicit firearms trafficking by organizing courses for law enforcement officials in Colombia and Brazil. The Centre expanded the scope of its training methodology to include border control through a tri-border training initiative that included law enforcement officials from Brazil, Colombia and Peru.

16. The Centre and the Organization of American States (OAS) also provided technical assistance to the Peruvian National Police for the destruction of firearms. As a result of this, and to strengthen the implementation of international best practices by national authorities, the Centre, jointly with OAS, developed a best practices manual on the destruction of surplus and/or obsolete weapons.

International Civil Aviation Organization

17. The International Civil Aviation Organization (ICAO) continued to monitor progress in addressing the threat posed by man-portable air defence systems. In a review of progress in the implementation of ICAO Assembly resolution A36-19 (2007), conducted in January 2009, most of the States replying to the ICAO request for a status report indicated that the necessary measures were being taken to control the import, export, transfer and re-transfer of man-portable air defence systems, as well as stockpile management and transfer of the systems technology and production capability.

18. In addition, the ICAO Aviation Security Panel, which includes experts nominated by Contracting States and the aviation industry, continued to examine the issue of new and emerging threats, including the threat posed by man-portable air defence systems.

Office of the Special Representative of the Secretary-General for Children and Armed Conflict

19. In accordance with the groundbreaking Machel Report of 1996, in June 2009 the Office of the Special Representative of the Secretary-General for Children and Armed Conflict launched the Machel Strategic Review, which draws attention to the obligation of States to protect children from the dangers posed by small arms and light weapons and provides guidance on the protection framework in terms both of stronger legislation and programmatic response to address the causes and effects of the proliferation of small arms and light weapons.

20. On 15 July 2008, the Special Representative co-organized, with the Office for Disarmament Affairs, a panel discussion entitled "Conflict of interests: children and guns in zones of instability", which aimed at raising awareness within the United Nations system on the dire consequences that the uncontrolled proliferation of small arms has on civilian populations, especially children. The results of the discussion were issued in February 2009 as an Office for Disarmament Affairs occasional paper.

United Nations Children's Fund

21. During the reporting period, the United Nations Children's Fund (UNICEF) continued advocacy, programming and partnerships at global, regional and country levels to promote the disarmament, demobilization and reintegration of children.

22. UNICEF undertook advocacy and armed violence prevention initiatives in El Salvador, Guatemala, Haiti, Jamaica, Papua New Guinea, Thailand and Trinidad and Tobago in order to address the impact of small arms proliferation on children and their communities. Advocacy and programming efforts focused on capacity development, victim assistance, conflict resolution and data gathering to promote resilience and strengthen the protective environment. UNICEF also assisted the Organization for Economic Cooperation and Development Development Assistance Committee in developing a policy paper on armed violence prevention and reduction.

23. UNICEF supported the development and implementation of a small arms risk education module in primary schools and kindergartens in Bosnia and Herzegovina. UNICEF is also developing an analysis of key findings on the impact of small arms on children in Brazil, Colombia, Haiti, Nepal, the Occupied Palestinian Territory, Senegal, South Africa and Yemen. It is envisaged that the document containing the analysis will be released in September 2009.

Department of Economic and Social Affairs of the United Nations Secretariat

24. The Department of Economic and Social Affairs of the United Nations Secretariat, in cooperation with the Office for Disarmament Affairs, provided substantive and technical support to the Sri Lanka National Commission against Proliferation of Illicit Small Arms, including the launch of a national firearms registry database and training on its use. In addition, the Department assisted the National Commission in designing a weapons-for-development project for the post-conflict zones in the country.

25. The Department and the Office for Disarmament Affairs continued to provide support to the Guinea-Bissau National Small Arms Commission, in close coordination with the United Nations Peace-Building Support Office in Guinea-Bissau. However, progress on the project has been slow due to the deteriorating political circumstances in the country. For instance, the planned collection and destruction of small arms in the region of Gabú had to be postponed. The Department did support work on designing, preparing and conducting a sensitization campaign entitled "Vote without guns" before the general elections of 16 November 2008 in Guinea-Bissau and provided assistance in designing the first national small arms survey conducted in Guinea-Bissau by the National Commission.

United Nations Development Programme

26. The United Nations Development Programme (UNDP) supported national Governments in over 30 countries in Africa, Asia, Latin America and Europe to: (a) develop sound legislative provisions for strict small arms and light weapons control; (b) build the capacity of national commissions to develop national action plans on small arms and light weapons; (c) implement commitments on the marking and tracing of small arms and put into operation best practices on stockpile management; and (d) enhance the capacity of security agencies to collect, register or destroy illicit arms. During the reporting period, UNDP also produced and disseminated "how-to" guides to better assist national Governments in developing legislation on small arms and light weapons and in setting up national small arms and light weapons commissions.

27. Significant success in tackling the supply side of small arms proliferation was achieved in the States of the former Yugoslavia and the former Soviet Union, with projects on arms destruction, stockpile management and the tightening of legislation in Bosnia and Herzegovina, Belarus, Croatia and Montenegro, all contributing to a reduction in the likelihood of irresponsible transfer of small arms to conflict areas and fragile States. UNDP continued to invest significant resources into tackling small arms and light weapons proliferation at the regional and subregional levels, with active support to regional small arms centres in South-East Europe and Central America.

28. Alongside efforts to strengthen controls over small arms and light weapons, UNDP deepened its work to support Governments in reducing the demand for weapons by developing and supporting armed violence prevention and community security and social cohesion programmes. The approach seeks to capacitate communities to tackle community-level conflict drivers and therefore act as an inhibitor to demand. Comprehensive approaches that integrate both types of programmes with traditional small arms and light weapons control to address the drivers of demand for arms were supported in, for example, Croatia, the Democratic Republic of the Congo, Jamaica, Kenya, Liberia, Papua New Guinea, South Sudan and Uganda. In keeping with the focus of addressing small arms and armed violence in a holistic manner, six United Nations entities (UNDP, the United Nations Human Settlements Programme, the United Nations Office on Drugs and Crime, the Office for Disarmament Affairs, UNICEF and the World Health Organization) deepened their collaboration within the inter-agency Armed Violence Prevention Programme to help ensure increased coordinated support to Governments at risk of armed violence.

29. Throughout the year, UNDP worked with the Government of Switzerland and other States to encourage support for the Geneva Declaration on Armed Violence and Development (see www.genevadeclaration.org) and the subsequent support of programming on armed violence prevention in focus countries, including Burundi, Jamaica, Guatemala, Kenya, Papua New Guinea and Timor-Leste.

United Nations Institute for Disarmament Research

30. The United Nations Institute for Disarmament Research carried out a comparative analysis of post-manufacture marking instruments and practices for small arms and light weapons. The project included research on and analysis of existing legislations and a global survey focusing on post-manufacture and import marking practices and procedures.

31. The Institute also developed a security needs assessment protocol to assist agencies working on building community security in the formulation of armed violence reduction programmes at the local level. As a pilot, the protocol is being implemented in Nepal, in cooperation with UNICEF.

United Nations Office on Drugs and Crime

32. The United Nations Office on Drugs and Crime finalized technical guidelines to assist Member States in implementing the control measures outlined in the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (the Firearms Protocol) and is working on a

model law on firearms to be issued in December 2009. In the context of its ongoing project in Colombia, the Office continued to assist the Government of Colombia in the destruction of arms seized or handed over to authorities by illegal groups in the process of their reintegration into civilian life.

33. Within the context of armed violence prevention, the Office, together with the Economic Commission for Europe, finalized a manual on victimization surveys aimed at assisting States in the planning and technical aspects of such surveys.

34. Throughout 2009, the Office continued the implementation of its project in Colombia on preventing and combating the illicit manufacturing and trafficking in firearms and ammunition to prevent crime and promote a culture of peace. Officials were trained on basic techniques for the control of the legal trade and the prevention of the illegal traffic of firearms, ammunition and explosives.

35. The Office organized with the Caribbean Community a regional workshop in Barbados to promote the Firearms Protocol and related instruments in the Caribbean region.

World Health Organization

36. During the course of the year, the World Health Organization (WHO) worked actively with five other United Nations agencies on finalizing the programming documentation for phase 2 of the Armed Violence Prevention Programme, which is a joint United Nations programme contributing to a more coherent and evidence-guided approach to armed violence and its prevention. Phase 2 of the Programme will develop programming in Kenya, Guatemala and Jamaica. WHO also provided input for a number of other global processes, notably the Caribbean Community summit on the prevention of youth crime and violence prevention, and provided support for national and provincial violence prevention policy and programme development activities in countries from most regions of the world and towards the review of the Geneva Declaration on Armed Violence and Development, which was held in Geneva during the reporting period.

B. Activities undertaken at the regional and subregional levels

Africa

37. The Economic Community of Central African States (ECCAS) reported that during the 28th ministerial meeting of the United Nations Standing Advisory Committee on Security Questions in Central Africa, held in Libreville from 4 to 8 May 2009, member States requested that a legal instrument for the control of small arms and light weapons in Central Africa be adopted by 2010. ECCAS also initiated implementation of two main programmes: the "Border programme", which focuses on cross-border security, and the "Awareness campaign on security sector reform". In January 2009, ECCAS began funding a project aimed at modernizing Cameroon's national legislation on small arms and light weapons.

38. The Regional Centre on Small Arms and Light Weapons, which covers States from the Great Lakes region, the Horn of Africa and bordering States, reported that it had supported its member States Djibouti, Kenya and Rwanda in the destruction of small arms and light weapons and ammunition. As part of its ongoing efforts in the area of stockpile management, the Regional Centre also supported the

organization in Nairobi of a regional seminar for East Africa on physical security and stockpile management and held a small arms and light weapons brokering seminar in Kigali for its member States. The seminar facilitated the information exchange between participating States on matters of regional cooperation, joint operations and legislative measures for the control of trade in arms.

39. The Regional Centre continued to support the efforts of the States in its region to mark small arms and light weapons. It facilitated train-the-trainer workshops in Burundi, Kenya, Rwanda, the United Republic of Tanzania and Uganda. The aim of the workshops was to train selected officials on the use of newly acquired marking machines and to review existing best practice guidelines on the marking of weapons.

40. The Regional Centre was nominated to function as the secretariat for the newly established Steering Committee of the African Union and Regional Bodies on Small Arms and Light Weapons.

41. The Southern African Regional Police Chiefs Cooperation Organization reported that it has developed standard operating procedures for the implementation of the Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community Region.

42. The Southern African Regional Police Chiefs Cooperation Organization is actively working on providing training courses on the marking of firearms and on a unified firearms database for the region.

Americas

43. The Andean Community reported that it has embarked on a three-year project entitled "Justice and combating crime in the Andean Community". The programme aims at strengthening cooperation and assistance among the member States of the Andean Community to combat organized crime, including the illicit trade in small arms and light weapons, by facilitating cooperation between attorney-generals, police and judicial and other authorities.

44. The Andean Community designated national points of contact as well as national coordination committees within its member States in accordance with the "Andean Plan to prevent, combat, and eradicate illicit trade in small arms and light weapons in all its aspects" adopted in June 2003.

45. The Caribbean Community (CARICOM) reported the signing of a memorandum of understanding on the "e-Trace" system between countries and territories of the Eastern and Southern Caribbean with the United States of America. The memorandum of understanding is aimed at enhancing the capacity of member States of CARICOM to trace illicit small arms and light weapons that are found in the Caribbean subregion, in conformity with the commitments undertaken by States under the International Tracing Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (International Tracing Instrument). Moreover, CARICOM signed a memorandum of understanding with INTERPOL to enhance information exchange in support of criminal investigations, including exchanges related to the illicit trade in small arms and light weapons as an element of organized crime. In December 2008, CARICOM finalized the Regional Integrated Ballistic Information Network, which is a network for sharing and comparing ballistic data. The first seminar of CARICOM ballistics experts and firearms examiners was conducted at Port-of-Spain in January 2009.

CARICOM has also established an Advance Cargo Information System, which will enable customs authorities to examine in advance documents presented for import and export and determine whether any item, including small arms and light weapons, requires special attention.

46. The Central American Programme on Small Arms Control reported that it assisted in the establishment of the national commissions on small arms and light weapons of Costa Rica and Nicaragua. In November 2008, the Programme carried out the first regional workshop for those national commissions.

47. Within the reporting period, as part of the ongoing "No weapons, thanks" awareness campaign, the Programme supported the destruction of 12,996 arms in Nicaragua and 1,759 arms in Costa Rica. In addition, the project entitled "Fighting the proliferation of small arms and light weapons: strengthening of custom controls, information and recording systems and border areas" was launched, supporting national authorities in the implementation of arms control systems, fostering cross-border cooperation and promoting the strengthening of civil society. From 20 to 23 April 2009, the Programme took part in the regional seminar on armed violence and development in Central America, organized by UNDP and the Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean, and helped to establish road maps focusing on youth violence, security companies, border control and joint work with municipalities.

48. The Organization of American States (OAS) reported that it is making progress in the development of model legislation on the confiscation or forfeiture of firearms. The model legislation is still under consideration by OAS member States, which will also take up draft model legislation on record-keeping, confidentiality and exchange of information. In November 2008, OAS supported Peru in planning to incorporate international standards for weapons destruction into Peruvian police procedures. Over 42,000 weapons were destroyed, using best practice procedures developed by the United Nations and by OAS.

Asia and the Pacific

49. The Pacific Islands Forum reported that it began developing a control of ammunition project for its member States. A toolkit will be developed to include required legislative provisions and amendments, literature on the registration of weapons and holders of weapons, and educational material on firearm safety and handling. Also during the reporting period, the Forum continued to support such regional programmes as the strengthening of armouries project implemented by Australia and New Zealand and the weapons disposal programme component of the Bougainville Peace Agreement.

Europe

50. The Organization for Security and Cooperation in Europe (OSCE) reported that it has initiated regular coordination meetings for assistance projects on small arms and light weapons and on stockpiles of conventional ammunition, with a view to avoiding duplication, sharing expertise and experience, and using resources effectively.

51. During the 16th Ministerial Council, held on 4 and 5 December 2008, OSCE participating States were encouraged to bring national laws, regulations and

administrative procedures into line with the International Tracing Instrument. The meeting also requested OSCE participating States to establish or to reinforce a legal framework for lawful brokering activities within their national jurisdiction by the end of 2010. With respect to the verification of end-user certification, the OSCE Forum for Security Cooperation decided to conduct an information exchange regarding sample formats of end-user certificates and relevant verification procedures. In addition, OSCE organized in October 2008 an assessment visit to Cyprus, upon its request, to provide assistance in the destruction of 324 man-portable air defence systems. From 27 to 28 November 2008, the OSCE Centre in Ashgabat organized a workshop on effective stockpile management and security and destruction of small arms and light weapons and ammunition.

52. The Centre for Security Cooperation reported that in cooperation with Croatia and the former Yugoslav Republic of Macedonia, it organized a seminar on marking and tracing as control measures to prevent and combat trafficking in small arms and light weapons. The seminar served as a platform for exchanging experiences and lessons learned and for the identification of means to harmonize processes for curbing small arms smuggling between the countries in the region.

53. The South-Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons reported that it assisted Western Balkan countries, together with the Regional Cooperation Council, in developing a regional arms export report. It has also developed management information software that has been used by national authorities in the region to collect, analyse and publish data on arms exports.

54. In terms of support to legislation development, the South-Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons contributed to a comparative legal research project that produced recommendations for the adoption and amendment of national legislation related to the control of weapons acquisition and possession. The recommendations have benefited the Governments of Bosnia and Herzegovina and Montenegro, in particular. It continued to update its regional micro-disarmament standards and guidelines to reflect best operational practices in the region and beyond.

C. Activities undertaken by intergovernmental organizations

55. INTERPOL reported that during the reporting period its firearms programme developed a three-pronged approach to assist in firearms intelligence. The first is the INTERPOL Firearms Reference Table, a web-based application available on its I-24/7 network that enables investigators to correctly identify a firearm before submitting a trace request. In the reporting period, the INTERPOL Firearms Reference Table contained over 250,000 firearms references and 57,000 high-quality digital images. The second tool, launched in December 2008, is the INTERPOL Firearms Trace Request, a structured form that is linked to the INTERPOL Firearms Reference Table and that gives investigators the international communications tool to request tracing information from the firearm's country of origin or import. INTERPOL has also expanded access to these two tools to law enforcement entities that do not have access to the I-24/7 network, through a secure website. In addition, the organization launched the INTERPOL Ballistics Information Network, which permits the transnational sharing or comparing of ballistics data.

56. The Organization for Economic Cooperation and Development Development Assistance Committee reported that its member States endorsed a policy paper on armed violence reduction. The document identifies a number of emerging trends, such as the linkage between conflict and crime, armed violence in developing countries, and increasing youth populations in the global South. Based on the policy paper, the Organization for Economic Cooperation and Development Development Assistance Committee is in the process of developing practical programming notes on a range of key armed violence reduction issues, including on urban violence and youth violence. It is envisaged that the complete draft programming notes will be available for review by the end of 2009. A comprehensive mapping of armed violence reduction programmes is also due to commence in the coming months.

III. Observations and conclusions

57. During the reporting period, efforts within the United Nations agencies, international organizations and regional organizations to further develop and implement small arms control measures have continued. An increased emphasis not only on curbing the supply of illicit small arms and light weapons, but also on simultaneously stemming demand for these weapons, is notable.

58. The successful reinvigoration of the Coordinating Action on Small Arms mechanism is a reflection of the growing acknowledgement among United Nations entities of the importance of a coordinated approach to small arms issues.